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LETTER DATED 1 OCTOBER 1994 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

By its resolution 935 (1994) of 1 July 1994, the Security Council requested me to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse information submitted pursuant to that resolution, together with such further information as the Commission of Experts might obtain through its own investigations or the efforts of other persons or bodies, including the information made available by the Special Rapporteur of the Commission on Human Rights on Rwanda, with a view to providing me with its conclusions on the evidence of grave violations of international humanitarian law committed in the territory of Rwanda, including the evidence of possible acts of genocide.

On 26 and 29 July 1994, I informed the Security Council of the establishment of the Commission and its terms of reference and composition (S/1994/879 and S/1994/906). On that occasion, I expressed the hope that, in view of the urgency of the matter, the final report of the Commission would be submitted not later than 30 November 1994.

The Commission began its work on 15 August 1994 and, after a series of meetings in Geneva, conducted a field mission to Rwanda and some neighbouring countries from 29 August to 17 September 1994. Pursuant to a decision taken at its first session, the Commission has transmitted to me an interim report which covers its preliminary investigations and activities prior to 30 September 1994. The Commission has taken the period 6 April 1994 to 15 July 1994 as the temporal mandate for the purpose of its interim report.

The interim report provides an account of the evidence gathered by the Commission during its field visit to Rwanda or provided by various Governments, intergovernmental institutions and non-governmental organizations. It also contains conclusions and recommendations and describes a plan of work for the remainder of its activities.

I wish to draw your attention to the conclusions reached at this stage by the Commission, namely that, in the period under consideration:

(a) Individuals from both sides to the armed conflict have perpetrated serious breaches of international humanitarian law, in particular of obligations set forth in article 3 common to the four Geneva Conventions of 12 August 1949

and in Protocol II additional to the Geneva Conventions and relating to the Protection of Victims of Non-International Armed Conflicts of 8 June 1977;

(b) Individuals from both sides to the armed conflict have perpetrated crimes against humanity in Rwanda;

(c) Acts of genocide against the Tutsi group were perpetrated by Hutu elements in a concerted, planned, systematic and methodical way. These acts of mass extermination against the Tutsi group as such constitute genocide within the meaning of article II of the Convention on the Prevention and Punishment of the Crime of Genocide. The Commission has not uncovered any evidence to indicate that Tutsi elements perpetrated acts committed with the intent to destroy the Hutu ethnic group as such.

The Commission of Experts has recommended that the Security Council take all necessary and effective action to ensure that the individuals responsible for the foregoing grave violations of human rights in Rwanda during the armed conflict are brought to justice before an independent and impartial international criminal tribunal. In order to enhance the fair and consistent interpretation, application and adjudication of international law on individual responsibility for serious human rights violations and to achieve the most efficient allocation of resources, the Commission has further recommended that the Security Council amend the Statute of the International Criminal Tribunal for the former Yugoslavia so that it can consider crimes under international law committed during the armed conflict in Rwanda.

In view of the importance of the contents of the interim report, in particular of its conclusions and recommendations, I am forwarding a copy to you for the information of the Council. I will, of course, bring to the attention of the Security Council the final report envisaged in paragraph 3 of resolution 935 (1994) as soon as the Commission makes it available to me.

(Signed) Boutros BOUTROS-GHALI

Annex

Preliminary report of the Independent Commission of Experts established in accordance with Security Council resolution 935 (1994)

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I. INTRODUCTION

A. Mandate

1. On 1 July 1994, the Security Council adopted resolution 935 (1994) requesting the Secretary-General to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse information submitted pursuant to that resolution, with a view to providing the Secretary-General with its conclusions on the evidence of grave violations of international humanitarian law committed in the territory of Rwanda, including the evidence of possible acts of genocide.

2. In pursuance of paragraph 3 of the above-mentioned resolution, the Secretary-General submitted, on 26 July 1994, a report to the Security Council (S/1994/879). In that report, the Secretary-General stated that the Council had condemned all breaches of international humanitarian law in Rwanda, particularly those perpetrated against the civilian population during the armed conflict and had recalled that persons who instigated or participated in such acts were individually responsible. The Council had affirmed that the killing of members of an ethnic group with the intention of destroying the group as such, in whole or in part, constituted a crime under international law.

3. Based on the terms of reference set out in Security Council resolution 935 (1994), the Secretary-General requested the Commission of Experts to review and update information available from all sources; to carry out its own investigations in Rwanda; to draw its own conclusions concerning evidence of specific violations of international humanitarian law and in particular acts of genocide; and to determine whether and to what extent certain individuals might be held responsible for having committed those violations.

4. In view of the above, the Commission was requested to examine the question of jurisdiction, whether international or municipal, before which such persons could be brought to trial. The Commission of Experts decided that its temporal mandate should cover the period 6 April 1994 to 15 July 1994. a/

5. Furthermore, the report of the Secretary-General outlined the composition of the Commission of Experts and its operational modalities. In that regard, the Secretary-General took note, inter alia, of the similarities of the mandates entrusted by the Commission on Human Rights in its resolution S-3/1 of 25 May 1994 to the Special Rapporteur on Rwanda and the terms of references outlined by the Council in its resolution 935 (1994) vis-à-vis the Commission of Experts.

6. To avoid unnecessary overlapping and to ensure maximum cooperation between the two investigative bodies, the Secretary-General urged that the information submitted to him in pursuance of the above-mentioned resolutions should be made available to each body in the performance of their respective tasks.

7. For reasons of efficiency, practicality and economy, the Secretary-General decided that the Commission of Experts should be located at the United Nations Office at Geneva, where it could benefit from the resources of the Office of the

United Nations High Commissioner for Human Rights as well as those made available to the Special Rapporteur of the Commission on Human Rights.

8. Given the urgency of the matter, the Security Council requested the Commission of Experts to submit its conclusions within four months of its establishment, through the Secretary-General. The Secretary-General established the deadline of 30 November 1994 for submission of the final report.

9. In addition, the Commission of Experts decided at its first session, on 18 and 19 August 1994, to submit an interim report to the Secretary-General covering its preliminary investigations and activities prior to 30 September 1994.

B. Composition

10. On 26 July 1994, the Secretary-General established the Commission of Experts composed of three members. Accordingly, he nominated Mr. Atsu-Koffi Amega (Togo), as Chairman; Ms. Habi Dieng (Guinea); and Mr. Salifou Fomba (Mali), to serve in their personal capacities.

C. Meetings

11. The Commission of Experts began its work on 15 August 1994, in Geneva. Its first session was held on 18 and 19 August, during which it adopted its internal method of work, rules of procedure and a plan of activities.

12. On 19 August 1994, the Commission of Experts held consultations with the Special Rapporteur of the Commission on Human Rights on Rwanda, Mr. Réne Dégni-Ségui, to coordinate the modalities of their work, primarily for the purposes of gathering information and evidence concerning their respective mandates. The Commission also met several times with the United Nations High Commissioner for Human Rights. Meetings were held between the Commission and representatives of a number of United Nations organizations, and in particular delegations from the Office of the United Nations High Commissioner for Refugees (UNHCR) and the World Food Programme, and also from the International Committee of the Red Cross (ICRC) and a number of non-governmental organizations.

13. The Chairman appealed to Member States for assistance so as to improve implementation of the Commission's mandate. On 23 August, prior to the Commission's departure for Rwanda, he held a meeting at Geneva with 21 government representatives to outline its immediate plan of activities. His request for assistance, including in matters related to prosecution, police investigations and forensic expertise so that proper hearings of victims and witnesses could be conducted and that mass graves could be exhumed.

D. Missions carried out in Rwanda and in neighbouring countries

14. From 29 August to 17 September 1994, the Commission of Experts conducted a field mission in Rwanda and its three neighbouring countries, Burundi, the United Republic of Tanzania and Zaire. The Commission met with the national authorities of those countries, United Nations officials, representatives of international and local non-governmental organizations, diplomatic representatives and other individuals in order to collect substantial information relating to grave violations of international humanitarian law and acts of genocide committed in Rwanda during the conflict.

15. During its stay in Rwanda, the Commission carried out a number of missions in the field and initiated several investigations. It also had the opportunity to hold a number of meetings with Rwandese refugees at Goma, Zaire, and at Dar-es-Salaam and to collect allegations of violations committed by the Rwandese Patriotic Front (RPF).

E. References made to the Commission of Experts by other United Nations bodies

16. At its first session, the Commission took note of Security Council resolutions 918 (1994) and 925 (1994), and of the reports of the Secretary-General (S/1994/640 and S/1994/879), leading to the establishment of the Commission.

17. The Commission also took note of the resolution adopted by the Commission on Human Rights at its special session held in Geneva on 25 May 1994 (S-3/1) and of the reports of the Special Rapporteur of the Commission on Human Rights on Rwanda (E/CN.4/1995/7 and E/CN.4/1995/12) submitted pursuant to that resolution.

18. Furthermore, at its forty-sixth session, the Subcommission on Prevention of Discrimination and Protection of Minorities adopted resolution 1994/1 entitled "Situation in Rwanda", which called the attention of the Commission of Experts to the need to inquire, inter alia, into events leading to the present situation, including the attack on the plane carrying the Presidents of Burundi and Rwanda, the assassination of the Prime Minister and of Rwandese ministers and dignitaries, as well as of the 10 United Nations soldiers assigned to protect the Prime Minister; to identify the Rwandese and foreign individuals implicated in the traffic of arms or other illicit traffic; and to engage as a priority in the identification and finding of evidence leading to attribution of responsibility of proprietors, management and personnel of certain media institutions especially those of Radio des Milles Collines, which played a crucial role in the perpetration and spread of the atrocities through incitement.

II. SOURCES OF INFORMATION AND ANALYSIS OF INFORMATION RECEIVED BY THE COMMISSION OF EXPERTS

19. In accordance with Security Council resolution 935 (1994), the Commission of Experts has conducted several investigations and has sought and received reliable information concerning serious human rights violations.

A. Information received from States

20. The Commission has received documents from the Governments of Spain, the United States of America, France and Ireland. They have come primarily from non-governmental organizations and private individuals.

21. Files submitted by the Government of Spain have come from the following institutions: ANB-BIA, the Contacts Committee (Conference of Catholic Bishops of Rwanda and the Protestant Council of Rwanda), the Congregation of Nuns of San José of Gerona, Médecins du Monde (Spain) and from the Society of African Missionaries (Pères Blancs).

22. The United States Government has also submitted documents to the Commission received from the following governmental and non-governmental organizations: the Foreign Affairs Commission of the Senate, the Department of State, Amnesty International (USA) and the United States Committee for Refugees. Information and testimonies contained in these reports indicate that numerous massacres have been perpetrated throughout Rwanda. The victims appear to be overwhelmingly either of Tutsi ethnic origin or Hutus who opposed the regime of former President Juvénal Habyarimana. In addition, these reports reveal that the violations were carried out mostly by armed gangs, including the interahamwe trained by the Presidential Guard and supported by the Rwandese armed forces. The reports mention certain high-ranking officials of the former regime as well as owners and journalists of Radio des Milles Collines as being chiefly responsible for having incited the Hutu population to exterminate Tutsis and to kill moderate Hutus.

23. Most of the organizations that have submitted reports to the Governments of Spain and the United States recommend that the United Nations act urgently with a view to preventing additional human rights violations in Rwanda. They also urge the establishment of an impartial body to investigate serious violations of human rights and humanitarian law, including genocide.

24. The French Government, for its part, has submitted to the Commission information gathered through "Opération Turquoise".

B. Information provided by organs within the United Nations system

25. The Special Rapporteur appointed in accordance with resolution S-3/1, adopted by the Commission on Human Rights on 25 May 1994, was entrusted with the following mandate:

(a) To investigate at first hand the human rights situation in Rwanda and to receive relevant and credible information on the human rights situation there from Governments, individuals, intergovernmental and non-governmental organizations, including on root causes and responsibility for atrocities committed on a continuing basis;

(b) To gather and compile systematically information on possible violations of human rights and acts that may constitute breaches of international humanitarian law and crimes against humanity, including acts of genocide, in Rwanda and to make that information available to the Secretary-General.

26. The Special Rapporteur has submitted two reports so far. In his first report (E/CN.4/1995/7 of 28 June 1994), the Special Rapporteur indicated that large-scale massacres were organized and carried out by the Hutu militia interahamwe, associated with the Movement révolutionnaire national pour le développement, and by the impuzamugambi, associated with the Coalition pour la défense de la république.

27. The victims of the massacres were mostly either of Tutsi origin or were Hutus considered to be moderate. The report cited numerous heinous acts perpetrated against those groups, including the killing of moderate Hutus by extremist Hutus, acts of torture and other cruel, inhuman or degrading treatment, as well as the incitement of ethnically motivated hatred and violence. The report concluded that responsibility for the above rested with the aforementioned militias and the "transitional Government" of Rwanda. It recommended, inter alia, the establishment of an ad hoc international criminal tribunal or, alternatively, the extension of the jurisdiction of the International Criminal Tribunal for the former Yugoslavia. b/

28. In his second report (E/CN.4/1995/12 of 12 August 1994), the Special Rapporteur denounced in particular the activities of the Radio-Télévision Libre des Milles Collines and of the former Government that fled the country as being primarily responsible for the killing of Tutsis and moderate Hutus and also for the fear or refugees to return to Rwanda.

29. The Special Rapporteur has transmitted to the Commission a list of 55 persons he considers chiefly responsible for the massacres, persons against whom there is "sufficient evidence" regarding massive human rights violations, in particular those concerning genocide.

30. The Commission of Experts has also received information from UNHCR that contains extensive evidence of systematic killings and persecution, in some cases as recently as early September, of Hutu individuals by the RPF army. The victims were consistently reported to have been men, women and children. The vast majority of the killings did not appear to be associated with any suspicion that the victims were personally associated with the April 1994 massacres of Tutsis. Floating bodies, many bound at the hands and feet, indicating death by summary execution, were retrieved from the Kagera River at an average of five bodies per day during the last week of August and the first week of September. The Government of Rwanda has acknowledged that some 60 to 70 Hutus were killed by RPF army soldiers in various parts of the country, although it has described

these killings as "isolated incidents". The Government has reportedly apprehended seven RPF army suspects.

C. Information provided by other intergovernmental bodies

31. The Commission of Experts has received the report on the situation in Rwanda of the Secretary General of the Organization of African Unity (OAU), which was presented to its Council of Ministers at its sixtieth regular session (Tunis, 6-11 June 1994). The Secretary General of OAU concluded in his report that there had been a deterioration of the political situation and a decrease in security arising from the assassination of political leaders and massacre of civilians. These killings were described as deliberately perpetrated and carried out on an almost unimaginable scale. In particular, the report called for the setting up of an independent and impartial expert commission of inquiry to investigate the circumstances of the accident concerning the presidential airplane on 6 April 1994 and the ensuing massacres.

D. Information provided by non-governmental organizations

32. A large number of non-governmental organizations submitted reports to the Commission of Experts. These reports contained either observations of a general nature about violations of human rights and humanitarian law in Rwanda or specific allegations regarding the killing or kidnapping of persons identified by name.

33. The crimes have been attributed principally to the militias identified above, to the Rwandese armed forces, to the political and administrative authorities and to several hundred Rwandese Hutu individuals.

34. A number of reports contain detailed lists of names of presumed authors of the massacres and other abuses. The following non-governmental organizations have provided the Commission with reports: Amnesty International; the Regional Council of Non-Governmental and Development Organizations of Southern Kivu; Droits de l'Homme sans Frontières; International Federation of Human Rights; Médicins du Monde; Médicins sans Frontières; Nord-Sud XXI; World Organization Against Torture; OXFAM; Reporters sans Frontières; the Zaire section of the International Society for Human Rights; the International Service for Human Rights; Survival International and the United States Committee for Refugees. ICRC has also provided information.

35. Most of these reports recommend the establishment of a tribunal to try and punish the individuals responsible for genocide.

36. The information contained in the majority of the reports appears to be precise, detailed and corroborated by information gathered by the Special Rapporteur. Among documents worthy of special attention that could be cited vis-à-vis evidence incriminating specific persons are the Statutes of the Radio-Télévision des Milles Collines (which lists the names and signatures of 50 shareholders) and a formal complaint filed with the Belgian and French judicial authorities by Reporters sans Frontières against certain officials of

the former Rwandese regime who have been identified by name. In the complaint, the individuals named are specifically accused of having committed the following acts: (a) the crime of genocide; (b) grave violations of international humanitarian law; (c) crimes against humanity; and (d) torture and other cruel, inhuman or degrading treatment or punishment. Another piece of evidence on file constitutes a transcript of broadcasts made by Radio des Milles Collines concerning incitement to commit acts of genocide.

E. Information provided by both sides to the armed conflict

37. The Commission has received from both sides to the conflict thousands of pages of documents, letters, complaints and testimonies, both in writing and in other forms (audio and video recordings), indicating that serious violations of international human rights and humanitarian law have taken place. These documents vary in quality. From RPF and, consequently, from the Government that is currently in power in Kigali, the Commission received documents incriminating the former Government, as well as related entities and militias, in crimes against Tutsis. Some of these documents contain lists, which are not exhaustive, of principal suspects. In this context, the Commission received from RPF a list of Hutu persons accused of instigating the massacres and other crimes committed in Rwanda after 6 April 1994.

38. For their part, leaders of the former Government, now in exile, provided the Commission with documents enumerating (a) the names of several hundred persons massacred by the Inkotanyi troops of the RPF; (b) specific sites of some 15 mass graves where victims of massacres perpetrated by the RPF were buried; and (c) written testimony of a number of Hutus who had escaped from areas occupied by RPF during the armed conflict.

F. Information provided by private individuals

39. The Commission also took note of testimonies, reports, complaints and other documents provided by private individuals. They consist primarily of information provided by members of religious orders and foreign nationals who lived in Rwanda or had maintained relations with nationals of Rwanda and Rwandese refugees in Zaire.

40. Information has also been received from associations of Rwandese of each side, resident in other countries, but these show especially strong bias. Pro-Hutu groups argue that the international community should not consider Tutsis as the only victims of the Rwandese tragedy. They point in particular to certain serious violations such as the killing of prisoners, taking of hostages, destruction of property belonging to the Hutu extremists who have fled the country, torture and other cruel, inhuman or degrading treatment. Pro-Tutsi associations have insisted, for their part, on the premeditated and planned nature of the killings by Hutus.

III. OVERVIEW OF THE FACTS

A. Background

41. A number of massacres have been perpetuated in Rwanda in the last 45 years. In particular, the years 1959, 1963, 1966, 1973, 1990, 1991, 1992 and 1993 were marked by massacres in Rwanda. Mass killings were carried out in October 1990, January-February 1991 and March 1992. From December 1992 to February 1993 about 2,000 people were murdered. The report of the fact-finding mission of the International Federation of Human Rights of February 1993 recounted massive and systematic human rights violations. These violations were principally carried out against Tutsi individuals. The facts were corroborated by other sources (see reports published by Amnesty International Rwanda, Persecution of Tutsi, Minority and Repression of Government Critics, 1990-1992, of May 1992; and also of the Association Rwandais pour la Défense des droits de la personne et des libertés publiques, Rapport sur de droits de l'homme au Rwanda, September 1991-September 1992.

42. On 6 April 1994, Juvénal Habyarimana, President of the Rwandese Republic, Cyprion Ntyamira, President of the Republic of Burundi, and a number of entourage members and crew were killed when the aircraft carrying them was attacked. This disaster triggered a pre-planned execution of severe human rights violations, including systematic, widespread and flagrant breaches of international humanitarian law, large-scale crimes against humanity and genocide.

43. Since 6 April 1994, an estimated 500,000 unarmed civilians have been murdered in Rwanda. That estimate indeed may err on the conservative side for, as the Special Rapporteur of the Commission on Human Rights observed in his report of 28 June 1994 (E/CN.4/1995/7, para. 24), some reliable estimates put the number of dead at close to 1 million. It is unlikely that the world will ever know the exact number of men, women and children slaughtered in this holocaust.

B. Concerted, planned, systematic and methodical nature of the criminal acts

44. Overwhelming evidence indicates that the extermination of Tutsi by Hutu had been planned months in advance of its actual execution. The mass exterminations of Tutsis were carried out primarily by Hutu elements in a concerted, planned, systematic and methodical way and were motivated out of ethnic hatred. These mass exterminations were clearly "committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such" within the meaning of article II of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948. Certain organizations such as Doctors without Borders have provided audio tapes and press releases based on information from former informants from the official news service. These informants provided them tapes proving the existence of "Escadrons de la mort", called "Réseau O", established by the staff of the former Head of State who was assassinated.

45. The Rwandese Government of President Juvénal Habyarimana, following colonial policy, had classified Rwandese by ethnic group. The ethnic identity of individuals in Rwanda is traditionally determined on a patrilineal basis, taking sole account of the father's ethnicity. While mixed marriage abound in Rwanda, one is considered a Tutsi in Rwanda where the father is Tutsi, regardless of the mother's ethnic background. In April 1994, the population of Rwanda consisted of approximately 84 per cent Hutu, 14 per cent Tutsi, and 2 per cent other.

46. Certain physical traits have commonly been attributed to the Tutsi population that are taken to distinguish them from Hutu. Tutsi are described as being taller than Hutu, with more aquiline noses, thinner ankles, longer fingers and longer gums.

47. In Rwanda, the ethnic designation of every individual is clearly indicated on his or her identity card. In the past, censuses have been taken that relate the name of each Rwandese to his or her ethnic identity. These lists were used during the killings that began on 7 April 1994.

48. Ample evidence of extensive preparation and planning months in advance of the actual violations indicates the concerted and premeditated character of the criminal acts in question.

49. In 1992, Leon Mugesera, an official in President Habyarimana's Movement révolutionnaire national pour le développement delivered a speech at a party conference at Gisenyi. In his speech, he explicitly called on Hutus to kill Tutsis and to dump their bodies in the rivers of Rwanda. The Commission of Experts has in its possession an audio cassette of this speech, which will likely prove to be of significant probative value to establish the presence of criminal intent to commit genocide when the perpetrators are brought to justice.

50. Racist hate propaganda was disseminated on a widespread basis as far back as 1993, especially by Radio-Télévision Libre des Milles Collines, a private radio station owned by members of President Habyarimana's party. These incitements branded Tutsi as well as certain Hutu opponents of the President as "enemies" and "traitors" who "deserved to die". The radio referred to all Tutsi as "the enemy" and accused them of siding with RPF. It called for all "enemies" to be "exterminated". Posters, leaflets and radio broadcasts on Radio des Milles Collines dehumanized Tutsis as "snakes", "cockroaches" and "animals". Individuals targeted in the radio broadcasts were among the first killed (along with their families) in April 1994.

51. Subsequently, a training camp for Hutu militia (interahamwe) was established at Mutara. The programmes there which lasted for three weeks each, involved indoctrination of groups of 300 men in ethnic hatred against the Tutsi minority. The programmes also propagated information on methods of mass murder. These trainees formed the militia of interahamwe meaning "those who attack together". They formed the core perpetrators of genocide. This militia was augmented by the impuzamugambi, which means "those who have a single aim", of the Hutu Coalition pour le défense de la République. The impuzamugambi militia were trained, armed and led by the Presidential Guard and other elements of the Rwandese government army.

52. Events in the hours immediately following the aircraft crash claiming the lives of President Habyarimana and President Ntyamira underscore that extensive planning and premeditation were involved in the human rights violations. As stated in the report of the Special Rapporteur (ibid., para. 26), the "provisional Government" was formed within only a few hours of the aircraft crash. Within 30 to 45 minutes of the crash, even before the news could be spread by national radio, barricades were erected on certain major thoroughfares. The Special Rapporteur records that within 45 minutes of the crash, the road from the Hotel Méridien to Amahoro Stadium was blocked by soldiers and civilians. He notes that senior officers of the general staff of the "provisional Government" conceded these facts. However, the officers contended that the exceptionally swift pace of events was really attributable to civilians and certain soldiers acting spontaneously in reaction to the sudden death of the Rwandese President, who had enjoyed great popularity. This explanation can hardly be convincing because news of the crash, which had only occurred 45 minutes previously, had yet to be disseminated.

53. Perhaps even more damming, the Rwandese Presidential Guard set up roadblocks that prevented United Nations Assistance Mission for Rwanda (UNAMIR) troops from reaching the airport to investigate the President's assassination. c/

54. Before dawn on 7 April, members of the Presidential Guard went to the homes of moderate opposition members and then killed them and their families. Among those killed were Prime Minister Agathe Uwilingiyimana, 10 Belgian UNAMIR soldiers who tried to protect her, the President of the Supreme Court, (Cour de Cassation) Mr. Joseph Kavaruganda, and human rights advocates Charles Shamukiga, Fidele Kanyabugoyi, Ignace Ruhatana and Patrick Gahizi. Soldiers also attacked a Roman Catholic Centre in Kigali and murdered 17 Tutsi, mostly priests and nuns, including Father Chrysologue Mahame (Society of Jesus) and Abbot Augustin Ntagara.

55. On 8 April 1994, the Presidential Guard, along with Rwandese army troops and interahamwe militia, began a systematic slaughter of Tutsi civilians in Kigali. As the Special Rapporteur states in his report, roadblocks had been set up and identity cards inspected to determine the ethnic identity of individuals within 30 to 45 minutes of the aircraft crash. At this time, individuals bearing Tutsi physical traits were singled out and summarily executed. As reported extensively in press reports, the streets of Kigali had begun to fill with corpses.

56. Eyewitness accounts indicate that house to house searches were carried out and Tutsis were hunted down and killed. Some Tutsis tried to flee to churches or hotels or to places where there might be safety in numbers. However, soldiers systematically murdered Tutsis who had tried to take refuge in the warehouse of the Belgian Red Cross in Kigali. Churches and the Amahoro Stadium were surrounded by soldiers who prevented Tutsis inside from leaving.

57. On 9 April 1994, the Rwandese Army and interahamwe militia continued to slaughter Tutsis at street barricades in Kigali and began to take people out of the churches for execution. At least 100 persons that were either inside or in front of a church were murdered. Others were burnt alive in a chapel.

58. Within the next week, the Presidential Guard and militia had killed an estimated 20,000 people in Kigali and its immediate environs. The mass killings, fomented by Radio des Milles Collines broadcasts which encouraged listeners to "fill the half-empty graves", spread to areas outside Kigali.

59. Many documents from human rights non-governmental organizations have provided non-exhaustive lists of victims:

Human Rights Watch/Africa (Report of June 1994)

- 2,800 persons killed in a church in Kibungo;
- 6,000 Tutsis killed in a church in Cyahinde where they had taken refuge. Only 200 survived;
- 4,000 killed in a church in Kibeho;
- 2,000 killed in a parish in Mibirizi;
- 4,000 killed in Shangi parish;
- 500 killed in Rukara parish;
- Hundreds of sick patients and also medical staff in hospitals in Kigali and in Butare;
- 31 Tutsi orphans and 11 Red Cross volunteers who tried to protect them were killed at the orphanage at Butare;
- 88 students were killed at their school in Gikongoro.

Doctors without Borders (USA)

60. According to testimony on the events of 6 to 30 April 1994, Doctors without Borders provided the names of hundreds of persons murdered, prefecture by prefecture. The perpetrators of the crimes were Rwandan civilians and Hutu refugees from Burundi, RPF army soldiers and also Hutu militia.

Prefecture of Ngenda

- 3 persons were killed in a camp at Burengé (6 to 10 April);
- 5 persons working for Doctors without Borders were assassinated at Burengé, close to the office of the Belgian Red Cross, on 10 April 1994;
- On 7 and 12 April, 24 other persons disappeared from a camp.

Prefecture of Butare

- 600 persons, most of whom were Tutsis, were killed in the commune of Mungaza on 19 April. The perpetrators of the crimes were from Hutu militia and neighbouring communes, made up of and accompanied by the communal administrator, the sector councillor, cell members, the mayor (bourgmestre) and members of the Movement révolutionnaire national pour le développement;

- Assassination of numerous sick, wounded and medical staff of the Butare university hospital between 16 and 26 April 1994, by the soldiers of the Rwandese armed forces and Hutu militia;

- Assassination of the Sub-prefect of Butaré (Parti socialiste démocrate, opposition party) and all members of his family, including a child of three months, by elements of the Presidential Guard, interahamwe militia and communal police officers, on 22 April 1994;

- 30 Tutsi civilians were beaten by the Presidential Guard in front of the Fascon Hotel;

- 170 patients (wounded and sick), all belonging to the Tutsi ethnic group, and 5 members of the medical staff, were kidnapped, then beaten to death or cut into pieces, at the Butare university hospital on 22 to 23 April 1994; the perpetrators of the violations were interahamwe militia, supported by Presidential Guard soldiers coming from Kigali and present in the hospital;

- Massacre of 4,000 Tutsi Rwandese civilians in the communal office of Muyaga by Rwandese armed forces soldiers supported by Hutu civilians on 27 April 1994.

Prefecture of Kibungo

- In the centre of Saint Joseph, Kibungo, 2,800 Tutsi persons were attacked on 15 April 1994 by Hutu soldiers and interahamwe militia with grenades.

Prefecture of Gikongoro

- 100 Tutsi civilians were killed in Kibeho (south-west Rwanda) by soldiers of the provisional Government army and by groups of armed Hutus following orders of the army.

United States Committee for Refugees

- 15,000 Tutsis were grouped together, by order of the Kibuye Prefect, at the stadium of Gatwaro, Kibuye, and massacred by interahamwe militia on 18 April 1994;

- Massacre of 4,300 Tutsis at St. Jean Home from 18 to 20 April 1994;

Testimony of clergy gathered by soldiers of Opération Turquoise

- 30 priests of the Nyundo Diocese were assassinated;

- Massacres and mass graves (pits) at Birambo, on the order of the mayor (bourgmestre) of Bwakira, and of the Sub-prefect of Birambo.

Other testimony from general sources

61. On 11 April, more than 800 Tutsi gathered at Kiziguro Roman Catholic Church, Murambi district, Byumba prefecture. Rwandese soldiers and militia attacked and killed all but 10 of them. Those survivors threw themselves into the mass grave to avoid being hacked to death.

62. Nine Tutsi patients at the Kigali hospital were killed in separate attacks on 11 and 15 April by Rwandese government soldiers.

63. It was reported that 500 Tutsi were killed by interahamwe militia and gendarmes at Rukara Roman Catholic mission in Kibungo prefecture, Rukara district.

64. On 15 April and thereafter, Rwandese army troops distributed automatic and semi-automatic rifles and pistols to interahamwe militia, with which they continued the mass slaughter of Tutsis that had begun with machetes and other weapons.

65. On 17 April more than 100 Tutsi were killed by soldiers and militia at Nyanza. On 18 April, 2,000 Tutsi were massacred by interahamwe militia in the Mabirizi Roman Catholic church, Cyangugu prefecture, Cyimbogo district.

66. On 19 April, the President of the provisional Rwandese government, Theodore Sindikubwabo, spoke on the radio and called for the killing of "accomplices" in Butare. The Presidential Guard flew in that night and dug pits, filled them with burning tires, and pushed Tutsi into them. They also executed Tutsi near the National University for the next three days, killing thousands.

67. Over 2,800 people, most of them Tutsi, were killed at Mukarange Roman Catholic parish, Kibungo prefecture, Rwamagana district. Interahamwe militia used grenades, machine-guns, R4 rockets and machetes in this massacre.

68. In Gikongoro, 88 students were singled out because of their Tutsi origin and slaughtered at their school.

69. On 23 April, Government troops and militia murdered 170 Tutsi patients and staff at Butare hospital. Doctors of Médecins sans frontières witnessed these acts.

70. On 29 April, military and militia killed over 300 of 5,000 hostages held in the Cyangugu stadium.

71. On 30 April, the Rwandese Government radio called on people to take up arms against "the enemy" (the Tutsi) all over Rwanda. Leaders of the Hutu militia called upon their members to finish the "nettaoyage" (cleansing) of Rwanda of all Tutsi.

72. On 1 May, at the Butare orphanage, militia murdered 21 orphan children, segregated on account of their Tutsi origin, along with 13 Rwandese Red Cross volunteers who tried to protect them.

73. Beginning on 11 May, militia and military took hundreds of Tutsis from the Cyangugu stadium into the countryside by bus, where they were murdered.

74. In Cyahinda, over 5,800 Tutsi who had taken refuge in a church were murdered. Only 200 people survived the massacre.

75. On 16 May, Rwandese government troops and militia removed hundreds of Tutsis from the church centre of Kabgayi and executed them, while only a few kilometres away the Rwandese "Minister of Defense" of the "provisional Government", Augustin Bizimana, told reporters the massacres had stopped.

76. In Kigali, thousands of Tutsis sought refuge in the Amahoro Stadium, the Hotel des Milles Collines, the Sainte Famille Church and other locations. Militia entered at night on a number of occasions, removed hundreds of Tutsis from the Stadium and church, then murdered them.

77. The genocidal massacres in Rwanda continued into July 1994. The Commission could cite many more massacres committed by Rwandese government soldiers and Hutu militia against the Tutsi of Rwanda.

78. The mass murder of Tutsis continued throughout areas controlled by the Rwandese "provisional Government". Reliable estimates put the number of persons murdered in Rwanda between the period 6 April 1994 and 15 July 1994 at half a million.

C. Violations of international humanitarian law and of human rights law attributed to the Rwandese Patriotic Front

79. While the massacres perpetrated by RPF were less systematic than those of the Rwandese armed forces and Hutu militia, certain crimes against humanity are alleged to have been carried out by RPF.

80. The former exiled Government submitted to the Commission many lists of persons alleged to have been massacred by RPF. In particular, it is alleged that 11 Hutu were murdered in August, including certain persons returning from exile, and that 27 Hutu families were massacred between 2 and 12 April 1994. The former Government also provided a document that alleged the existence of mass graves attributed to RPF elements, including 8 in Kigali.

81. Other lists were submitted by witnesses and parents of Hutu victims, now refugees in Zaire: about 300 persons were alleged to have been killed by the

Inkotanyi (regulars of the RPF forces) in Byumba prefecture. In the commune of Bwisige, it is alleged that the following massacres were perpetrated: 30 Hutus killed in Bwisiga sector; 49 in Nyarurama sector; 52 in Kabongoya sector; 52 in Buhanga sector; 22 in Gihuke sector; 26 in Muti sector and 25 in Karehe sector. The former Government has alleged that, in Kigali prefecture, RPF elements massacred 102 Hutus in the communes of Rutongo, Shorgi, Mutwa and Rwerere from April to June 1994.

82. The Commission of Experts has concluded that there exist substantial grounds to conclude that mass assassinations, summary executions, breaches of international humanitarian law and crimes against humanity were also perpetrated by Tutsi elements against Hutu individuals and that allegations concerning these acts should be investigated further. To this point, the Commission has not uncovered any evidence to indicate that Tutsi elements perpetrated acts committed with intent to destroy the Hutu ethnic group as such within the meaning of the Genocide Convention of 1948.

83. As it was finalizing the present document, the Commission of Experts received reports of violations of the right to life in Rwanda perpetrated in the period from August to early September 1994. The Secretary-General has asked the Commission to investigate these reports. The Commission will undertake to investigate the reports within the terms of its mandate and to submit its report to the Secretary-General in accordance with his request.

IV. ISSUES OF LAW CONCERNING INDIVIDUAL RESPONSIBILITY IN INTERNATIONAL LAW

A. Applicability of international law to the situation in Rwanda

84. The applicability of international legal norms to the situation in Rwanda in the period 6 April to 15 July 1994 depends upon (a) the legal status of the conflict (determined by the factual situation in Rwanda and the legal norms in force); (b) the scope ratione materiae of specific norms of international human rights law and international humanitarian law (determined by their content); and (c) the legal status of these norms (determined by their sources of law).

85. With these indices in mind, it is clear that international legal norms providing for individual responsibility for serious human rights violations have been breached in Rwanda during the period 6 April to 15 July. d/ Specifically, certain individuals are responsible for breaches of (a) norms of international humanitarian law on a systematic, widespread and flagrant basis; (b) norms prohibiting crimes against humanity; and (c) norms prohibiting acts of genocide.

86. The relevant norms of international law providing for individual responsibility overlap to a certain extent. Consequently, in some instances a single act may qualify as a crime on more than one separate and distinct legal ground.

B. Breaches of international humanitarian law, particularly those perpetrated against the civilian population

87. Rwanda succeeded to the Geneva Conventions of 12 August 1949 on 5 May 1964 and acceded to Protocols additional thereto of 1977 on 19 November 1984. e/

88. The applicability of international humanitarian law hinges on the status of the conflict.

89. First, there must be an armed conflict. There can be no doubt that the conflict in Rwanda was an armed conflict as evidenced by the means and methods employed by those involved, and as evidenced by the sheer scale of atrocities committed during the period 6 April to 15 July 1994.

90. Secondly, precisely which rules of international humanitarian law apply to the armed conflict in Rwanda between 6 April and 15 July depends on whether the armed conflict is to be considered an international armed conflict or a non-international conflict. f/

91. The armed conflict between the period 6 April and 15 July 1994 qualifies as a non-international armed conflict. The use of armed force had been carried out within the territorial borders of Rwanda and did not involve the active participation of any other State. Third State involvement entailed peacemaking and humanitarian functions rather than belligerent action.

92. This is not to say that the armed conflict in Rwanda has not had a serious effect on neighbouring States or on the international community as a whole. Serious repercussions on the social and political welfare and internal stability of neighbouring States has been affected. For example, the massive influx of refugees into their respective territories has created difficulties. Moreover, the conflict in Rwanda makes it an obvious threat to international peace and security within the meaning of Chapter VII of the Charter of the United Nations. None the less, these aspects do not alter the basic character of the armed conflict in Rwanda during the period 6 April to 15 July 1994 as predominately non-international in character.

93. Accordingly, the obligations set out in common article 3 to the four Geneva Conventions of 1949 governing "situations not of an international character", as well as Protocol II g/ additional thereto (intended to develop and supplement common article 3 but without modifying its existing conditions of application) h/ are applicable.

94. At the other end of the scale, the non-international armed conflict in Rwanda cannot be considered to be of a purely internal nature within the meaning of article 1 (2) of Protocol II. The violence in Rwanda has far exceeded mere "internal disturbances and tensions, such as riots, isolated acts of violence [or] other acts of a similar nature". i/ The evidence indicates very clearly that the violence perpetrated in Rwanda was carried out not by small groups in a spontaneous fashion, but by individuals under a responsible command that conducted "sustained and concerted military operations" j/ involving strategic planning and tactical sophistication. k/

95. Common article 3 to the Geneva Conventions of 12 August 1949 prohibits "at any time and in any place whatsoever":

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) Taking of hostages;

(c) Outrages upon personal dignity, in particular humiliating and degrading treatment; and

(d) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples;

against "persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause".

96. Article 3 (2) provides that "the wounded and sick shall be collected and cared for".

97. Article 4 of Protocol II, which supplements article 3 common to the four Geneva Conventions, prohibits the following acts against "all persons who do not take a direct part or who have ceased to take part in hostilities":

(a) Violence to the life and person, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation, cruel treatment or any form of corporal punishment;

(b) Collective punishments;

(c) Taking of hostages;

(d) Acts of terrorism;

(e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;

(f) Slavery and the slave trade in all their forms;

(g) Pillage;

(h) Threats to commit any of the foregoing acts.

98. Article 4 of Protocol II provides that children shall be provided with the care and aid they require and that "children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities".

99. Article 5 of Protocol II provides that "the following provisions be respected as a minimum with regard to persons deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained":

(a) The wounded and sick shall be treated in accordance with article 7;

(b) The persons referred to in this paragraph shall, to the same extent as the local civilian population, be provided with food and drinking water and be afforded safeguards as regards health and hygiene and protection against the rigours of the climate and the dangers of the armed conflict;

(c) They shall be allowed to receive individual or collective relief;

(d) They shall be allowed to practise their religion and, if requested and appropriate, to receive spiritual assistance from persons, such as chaplains, performing religious functions;

(e) They shall, if made to work, have the benefit of working conditions and safeguards similar to those enjoyed by the local civilian population.

100. Article 7 (1) requires that:

"All the wounded, sick and shipwrecked, whether or not they have taken part in the armed conflict, shall be respected and protected."

101. Article 7 (2) provides that:

"In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones."

102. Article 8 requires that:

"Whenever circumstances permit, and particularly after an engagement, all possible measure shall be taken, without delay, to search for and collect the wounded, sick and shipwrecked, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead, prevent their being despoiled, and decently dispose of them."

103. Article 9 provides that medical and religious personnel shall be respected and protected. Article 11 provides that medical units and transports shall be respected and protected at all times and shall not be the object of attack.

104. Part IV of Protocol II relates to protection of the civilian population. Article 13 provides that:

1. The civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations. To give effect to this protection, the following rules shall be observed in all circumstances.

2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

3. Civilians shall enjoy the protection afforded by this Part, unless and for such time as they take a direct part in hostilities.

105. Article 14 guarantees protection of objects indispensable to the survival of the civilian population. Article 16 provides for protection of cultural objects and places of worship.

106. Article 17 provides that:

"The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition."

107. The Commission of Experts has determined that common article 3 of the Geneva Conventions of 1949 and the provisions cited above of Protocol II additional to the Geneva Conventions of 1949 were violated in Rwanda during the period 6 April to 15 July 1994 on a systematic, widespread and flagrant basis.

C. Crimes against humanity

108. To understand whether and to what extent norms prohibiting crimes against humanity apply to the armed conflict in Rwanda it is necessary to consider the content and legal status of "crimes against humanity" as a norm of international law.

109. "Crimes against humanity" as a legal category is not as clear in content or legal status as "genocide" or breaches of the Geneva Conventions or Protocols additional thereto. A certain level of ambiguity in the content and legal status of "crimes against humanity" derives partly from its formulation in the Nuremberg Charter and partly from the way it was interpreted by the Nuremberg Tribunal.

110. "Crimes against humanity" were cast in article 6 (c) of the Nuremberg Charter as:

"murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population before or during the [Second World] war, or persecutions on political, racial, or religious grounds in execution of or in connection with any crime within the jurisdiction of the [Nuremberg] Tribunal, whether or not in violation of the domestic law of the country where perpetrated."

It was unclear at the outset as to whether norms prohibiting "crimes against humanity" were intended to overlap with norms prohibiting war crimes or whether they were supposed to be independent juridical concepts.

111. Article 6 (c) of the Nuremberg Charter does narrow the concept of "crimes against humanity" considerably. As Sunga l/ states:

> "In particular, the acts must have been committed against civilians rather than soldiers (whereas norms prohibiting war crimes restrict actions against soldiers as well), and the acts must have been committed 'either before or during the war' (although what period of time before the war is not specified). A Protocol of 6 October 1945, done in Berlin, amended the original version of article 6 (c). The original provision contained a semicolon which followed the word 'war' which seemed to imply that murder etc. could be considered as crimes against humanity independent of the jurisdiction of the Tribunal. However, the semicolon was replaced with a comma by the Protocol. The result was to imply that crimes against humanity were to be interpreted to import liability only for acts connected to the war."

Moreover, the United Nations War Crimes Committee on Facts and Evidence in 1946 sought to clear up any ambiguity by stating that:

> "... crimes against humanity as referred to in the Four Power Agreement of 8th August 1945, were war crimes within the jurisdiction of the [United Nations War Crimes] Commission." m/

112. Consequently, "crimes against humanity" were interpreted by the Nuremberg Tribunal as offences that were connected to the Second World War, rather than to any situations that might have existed prior to it.

113. If the normative content of "crimes against humanity" had remained frozen in its Nuremberg form, then it could not possibly apply to the situation in Rwanda that existed between 6 April and 15 July 1994 because there was not a "war" in the classic sense of an inter-State or international armed conflict.

114. However, the normative content of "crimes against humanity" - originally employed by the Nuremberg Tribunal for its own specific purposes in connection with the Second World War - has undergone substantial evolution since the end of the Second World War.

115. First, even the Nuremberg Tribunal itself had established that "crimes against humanity" covered certain acts perpetrated against civilians, including those with the same nationality as the perpetrator. Indeed, "crimes against humanity" as a normative concept finds its very origins in "principles of humanity" first invoked in the early 1800s by a State to denounce another State's human rights violations of its own citizens. Thus, "crimes against humanity" as a juridical category was conceived early on to apply to individuals regardless as to whether or not the criminal act was perpetrated during a state of armed conflict or not and regardless of the nationality of the perpetrator or victim.

116. Secondly, the content and legal status of the norm since Nuremberg has been broadened and expanded through certain international human rights instruments adopted by the United Nations since 1945. In particular, the Genocide Convention of 1948 affirms the legal validity of some of the normative content of "crimes against humanity" as conceived in article 6 (c) of the Nuremberg Charter, but does not overtake it. The International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted by the United Nations General Assembly on 30 November 1973 refers in article 1 to apartheid as a "crime against humanity".

117. Thirdly, the Commission of Experts on the former Yugoslavia, established by the Security Council in its resolution 780 (1992) has stated that it considered crimes against humanity to be:

> "gross violations of fundamental rules of humanitarian and human rights law committed by persons demonstrably linked to a party to the conflict, as part of an official policy based on discrimination against an identifiable group of persons, irrespective of war and the nationality of the victim." n/

This view finds support in the writings of publicists. o/

118. The Commission of Experts on Rwanda considers that "crimes against humanity" are gross violations of fundamental rules of humanitarian and human rights law committed by persons demonstrably linked to a party to the conflict, as part of an official policy based on discrimination against an identifiable group of persons, irrespective of war and the nationality of the victim, and includes acts such as the following:

- Murder and extermination;
- Enslavement;
- Deportation and population transfer;
- Persecution;
- Mutilation;
- Cruel treatment;
- Humiliating and degrading treatment;
- Torture;
- Unlawful human experimentation;
- Apartheid.

The Commission has determined that there exists ample grounds to conclude that "crimes against humanity" were committed in Rwanda between the period 6 April and 15 July 1994.

D. Genocide

119. The Convention on the Prevention and Punishment of the Crime of Genocide was adopted by the United Nations General Assembly on 9 December 1948 and entered into force on 12 January 1951 in accordance with article XIII. Rwanda acceded to the Genocide Convention on 16 April 1975. Rwanda entered a reservation that states: "The Rwandese Republic does not consider itself as bound by article IX of the Convention." Article IX provides that:

> "Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

Even if Rwanda had not ratified the Genocide Convention, it would be bound by the prohibition of genocide which forms part of customary international law. Moreover, it is universally accepted and recognized by the international community that the prohibition of genocide has attained the status of jus cogens. It therefore has a peremptory status. p/ For these reasons, the prohibition of genocide as affirmed in the Genocide Convention applies to all members of the international community rather than merely to parties to the Convention.

120. Article I of the Genocide Convention affirms that "genocide, whether committed in time of peace or in time of war, is a crime under international law" which ratifying States undertake to prevent and punish.

121. Article II provides that:

> "In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical (sic), racial, or religious group, as such:
>
> (a) Killing members of the group;
>
> (b) Causing serious bodily or mental harm to members of the group;
>
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
>
> (d) Imposing measures intended to prevent births within the group;
>
> (e) Forcibly transferring children of the group to another group."

122. Article III provides that "the following acts shall be punishable:

> (a) Genocide;
>
> (b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide,

(e) Complicity in genocide."

123. Article IV provides that "persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals."

124. The Commission of experts has determined that there are ample grounds to conclude that every provision laid out in article III of the Genocide Convention has been violated in Rwanda in the period 6 April to 15 July 1994 in respect of a specific ethnic group as such.

V. ATTRIBUTION (IMPUTABILITY)

A. Individual responsibility in international law

125. The attribution of responsibility to the individual in propria personam is not entirely new. Indeed, military trials of individuals for having committed war crimes date back at least to 1419, as Keen documents in his work The Laws of War in the Middle Ages. q/ There is also the international trial of Peter von Hagenbach, which took place in 1474 for acts that today are considered crimes against humanity. International legal norms stipulating individual responsibility for slave-trading and slave-trafficking and for piracy arose out of the Congress of Vienna in 1815. Today these norms are considered part of customary international law and probably of jus cogens. r/

126. It is true that international responsibility is predominantly, even almost exclusively, centred around States rather than other entities. This should not be surprising since it is the State that is the primary subject of international law. Prior to the Nuremberg Trials following the end of the Second World War, even war crimes and crimes against humanity involved responsibility primarily of the State rather than of the individual.

127. However, the Nuremberg Trials established clearly the principle that any individual, regardless of office or rank, shall be held responsible in international law for war crimes, crimes against peace or crimes against humanity. It symbolized the possibility that trials could actually be carried out and punishment enforced in modern times.

128. The principle that the individual shall be held responsible for serious violations of human rights - firmly enforced by the Nuremberg Tribunal and today universally recognized by the international community - is the same principle that guides the operation of the International Criminal Tribunal for the former Yugoslavia and of the present Commission of Experts on Rwanda acting in conformity with United Nations Security Council resolution 935 (1994).

B. Command responsibility

129. It is a well-established principle of international law that a person who orders a subordinate to commit a violation for which there is individual responsibility is as responsible as the individual that actually carries it out. The Nuremberg Principles, adopted by the United Nations General Assembly on 11 December 1946, affirmed that even a Head of State is not free from responsibility under international law for the commission of a crime under international law. s/

130. The principle of command responsibility has been incorporated in article IV of the Genocide Convention laid out above and is expressed also in article 86 (2) of the 1977 Protocol I additional to the Geneva Conventions of 1949 relating to international armed conflicts. It finds expression again in the Draft Code on Crimes against the Peace and Security of Mankind. t/

C. Defences: superior orders, duress, mistake, military necessity and reprisal

131. Since the inception of the Nuremberg Charter it has been recognized that the existence of superior orders does not provide an individual with an exculpatory defence. u/ Nevertheless, the existence of superior orders may be taken into account with respect to mitigation of punishment.

132. The Commission wishes to note that it considers the defences of duress and mistake of fact as possible defences to individual allegations of serious human rights violations.

VI. THE QUESTION OF CRIMINAL JURISDICTION: ADVANTAGES AND DISADVANTAGES OF INTERNATIONAL PROSECUTION OF INTERNATIONAL CRIMES VERSUS MUNICIPAL PROSECUTION OF INTERNATIONAL CRIMES

133. The Commission of Experts wishes to register its strong support for the creation of an international criminal tribunal (or perhaps expansion in the jurisdiction of an existing one) to undertake prosecutions of individuals on the basis of international law. It considers that prosecution of individuals for having committed crimes under international law during the armed conflict in Rwanda would be better undertaken by an international, rather than by a municipal, tribunal for the reasons explained below.

134. One could argue that a municipal tribunal could be more sensitive to individual cases and more responsive to the needs of the local community because it is likely to be situated in, or close to, the site where alleged violations were perpetrated. Secondly, the gathering of evidence and visitation of the site of the alleged atrocities could be facilitated by having a municipal court preside over these cases. Thirdly, in some instances, judgements of municipal courts could be of greater and more immediate symbolic force because verdicts would be rendered by courts familiar to the local community. Conversely,

international prosecution could be perceived in some cases to be too far removed from the actual community it serves.

135. However, one should not confuse the jurisdiction of the tribunal competent with trying individual suspects with the site where the trial is held. No inconsistency would in any way exist between having cases brought under the jurisdiction of an international criminal tribunal and between having the trials conducted by that tribunal in the territory of Rwanda if that were deemed suitable.

136. There are some obvious disadvantages to the municipal prosecution and trial of individuals in cases where the crimes alleged concern extremely severe violations, such as those determined to have taken place in Rwanda between 6 April and 15 July 1994. Municipal prosecution in these highly emotionally and politically charged cases can sometimes turn into simple retribution without respect for fair trial guarantees. Even where such trials are conducted with scrupulous regard for the rights of the accused, there is a great likelihood that a conviction will not be perceived to have been fairly reached.

137. Therefore, for the purposes of independence, objectivity and impartiality, there are advantages in having trials conducted by an international criminal tribunal in a place such as The Hague for the very reason that there would be a certain measure of distance from the venue of the trial and the places where severe atrocities have been perpetrated.

138. Moreover, the gravity of human rights violations committed in Rwanda from 6 April to 15 July 1994 extends far beyond Rwanda. As a matter of international peace and security, they concern the international community as a whole. It is not only a matter of ensuring justice in respect of atrocities that have already been perpetrated, but also a matter of deterrence for the future. The coherent development of international criminal law better to deter such crimes from being perpetrated in future not only in Rwanda but anywhere, would best be fostered by international prosecution rather than by domestic courts. An international tribunal can more effectively take account of the relevant international legal norms in their specificity because that forms its special field of competence. Domestic courts are not likely to be as familiar with the technique and substance of international law.

139. It would seem that if criminal cases concerning Rwanda could perhaps be brought under the competence of the International Criminal Tribunal for the former Yugoslavia (created pursuant to Security Council resolutions 808 (1993) and 827 (1993)), this could greatly advance the cause of international criminal justice.

140. The alternative of creating an ad hoc tribunal along side the already existing international criminal tribunal in The Hague would not only be less efficient from an administrative point of view of staffing and use of physical resources, but would be more likely to lead to less consistency in the legal interpretation and application of international criminal law.

141. For these reasons, the Commission of Experts recommends that trials of individuals suspected of serious breaches of international humanitarian law,

crimes against humanity and acts of genocide be carried out by an international criminal tribunal.

142. The Commission of Experts considers it preferable that the jurisdiction of the International Criminal Tribunal for the former Yugoslavia be expanded to cover international crimes committed in Rwanda from 6 April rather than to create a separate ad hoc international criminal tribunal.

VII. PROJECTED PLAN OF WORK

143. The Commission intends to investigate particular cases with a view to forwarding that information to an international prosecutor or - in the event that such prosecutor is not appointed - to national prosecutors when they are deemed to be in a position to receive the information in question.

144. The method to be used in securing evidence will be in accordance with generally accepted rules governing criminal investigations. Guidance will be sought in the Statute for the International Criminal Tribunal for the former Yugoslavia and its rules of procedure.

145. The final report will only refer to these investigations in general terms so as not to destroy evidence or otherwise impede future prosecutions or cause security risks to victims and prosecution witnesses.

VIII. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

146. The Commission of Experts concludes, on the basis of ample evidence, that individuals from both sides to the armed conflict in Rwanda during the period 6 April 1994 to 15 July 1994 have perpetrated serious breaches of international humanitarian law, in particular of obligations set forth in article 3 common to the four Geneva Conventions of 12 August 1949 and in Protocol II additional to the Geneva Conventions and relating to the protection of victims of non-international armed conflicts, of 8 June 1977.

147. The Commission of Experts concludes also that ample evidence indicates that individuals from both sides to the armed conflict perpetrated crimes against humanity in Rwanda in the period mentioned above.

148. After careful deliberation, the Commission of Experts has concluded that there exists overwhelming evidence to prove that acts of genocide against the Tutsi group were perpetrated by Hutu elements in a concerted, planned, systematic and methodical way. Abundant evidence shows that these mass exterminations perpetrated by Hutu elements against the Tutsi group as such, during the period mentioned above, constitute genocide within the meaning of article II of the convention on the Prevention and Punishment of the Crime of Genocide, adopted on 9 December 1948. To this point, the Commission has not uncovered any evidence to indicate that Tutsi elements perpetrated acts

committed with intent to destroy the Hutu ethnic group as such during the said period, within the meaning of the Genocide Convention of 1948.

149. The Commission considers that to enhance the fair and consistent interpretation, application and adjudication of international law on individual responsibility for serious human rights violations and to effect the most efficient allocation of resources, the jurisdiction of the International Criminal Tribunal for the former Yugoslavia should be expanded to permit cases concerning the situation in Rwanda to be brought under it.

B. Recommendations

150. The Commission of Experts strongly recommends that the Security Council take all necessary and effective action to ensure that the individuals responsible for the serious violations of human rights in Rwanda during the armed conflict triggered on 6 April 1994 are brought to justice before an independent and impartial international criminal tribunal.

151. The Commission of Experts recommends that the Security Council take all measures to ensure that individuals shall be accorded a fair trial on the facts and law according to international standards of law and justice.

152. The Commission of Experts recommends that the Security Council amend the Statute of the International Criminal Tribunal for the former Yugoslavia to ensure that its jurisdiction covers crimes under international law committed during the armed conflict in Rwanda that began on 6 April 1994.

153. The Commission of Experts wishes to express its gratitude to Mr. José Ayala Lasso, the United Nations High Commissioner for Human Rights, and to Mr. Ibrahima Fall, Assistant Secretary-General for Human Rights, for their coordinated efforts and support to the Commission.

154. The Commission of Experts will submit its final report to the Secretary-General by 30 November 1994.

Notes

a/ The Commission of Experts wishes to make clear that the choice of its own mandate covering the period 6 April to 15 July 1994 is not meant to imply that jurisdiction ratione temporis of a tribunal, if formed to try and punish individuals responsible for crimes under international law in Rwanda, should be in any way limited to this period. The Commission considers that 6 April 1994 was clearly the date that the pertinent armed conflict was triggered. However, the Commission chooses to consider 15 July 1994 as a convenient end-point delimiting its temporal mandate over the situation in Rwanda, for the purpose of making its preliminary report. The Commission of Experts reserves the right to extend, contract or in any other way modify its temporal mandate in conformity with Security Council resolution 935 (1994).

b/ The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, established by Security Council resolution 827 of 25 May 1993 will be referred to in this report as the "International Criminal Tribunal for the former Yugoslavia".

c/ See Human Rights Watch: Africa, May 1994, p. 3.

d/ A more developed argument will appear in the final report to be submitted to the Security Council by 30 November 1994.

e/ Even if Rwanda had not become a party to the Geneva Conventions of 1949, it is universally widely acknowledged that common article 3 has become part of customary international law binding non-parties to the Conventions and is very likely to have attained the status of jus cogens as well. Norms of a jus cogens have a peremptory status and do not permit of any derogation or exception.

f/ Article 2 common to the four Geneva Conventions of 12 August 1949 concerns the applicability of the Conventions to all cases of declared war between two or more High Contracting Parties, even if the state of war is not recognized by one of them and all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance. Article 3 common to the four Geneva Conventions of 12 August 1949 applies to cases of "armed conflict not of an international character occurring in the territory of one of the High Contracting Parties".

g/ Protocol II: Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts, entered into force on 7 December 1978.

h/ See article 1 of Protocol II.

i/ See article 1 (2) of Protocol II to the Geneva Conventions of 1949.

j/ See article 1 (1) of Protocol II.

k/ Therefore, article 1 (2) of Protocol II relating to the protection of victims of non-international armed conflicts, which provides that "This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts", does not apply in the case of Rwanda.

l/ Sunga, Individual Responsibility in International Law for Serious Human Rights Violations, 1992. See also, Reshetov, "Development of Norms of International Law on Crimes against Humanity" in The Nuremburg Trial and International Law, Ginsburgs and Kudriavtsev (eds.) 1990, pp. 199-200.

m/ See Dinstein, International Criminal Law 20 Israel L. Rev. 206-242 (1985) and Id. at 36-7.

n/ S/25274, annex I, para. 49.

o/ See, for example, Reshetov, "Development of Norms of International Law on Crimes against Humanity" in The Nuremberg Trial and International Law, Ginsburgs and Kudriavtsev (eds.) 1990, p. 199. See also, Bassiouni, Crimes against Humanity in International Criminal Law, 1992, chap. 11.

p/ Article 53 of the Vienna Convention on the Law of Treaties, 1969 provides that a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

q/ Keen, The Laws of War in the Middle Ages, 1965.

r/ See Sunga, Individual Responsibility in International Law for Serious Human Rights Violations, 1992, and, generally, Bassiouni, International Criminal Law, 1986.

s/ See General Assembly resolution 95 (I) of 11 December 1946.

t/ See report of the International Law Commission on the work of its forty-third session (A/46/10).

u/ Article 8 of the Nuremburg Charter provides that "The fact that the defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determine that justice so requires".

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1994/1126
4 October 1994
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 3 OCTOBER 1994 FROM THE PERMANENT REPRESENTATIVE OF KUWAIT TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government and with reference to the letter from the representative of the Iraqi regime contained in document S/1994/1099 dated 27 September 1994, in which the claim is made that Iraq has returned all the Kuwaiti property in its possession, has no further property to return and has thus discharged all of its obligations under paragraph 2 (d) of resolution 686 (1991) and paragraph 15 of resolution 687 (1991), I have the honour to transmit to you herewith an indicative but far from exhaustive list of the Kuwaiti property that has yet to be returned. The list demonstrates that the claims of the Iraqi regime to have returned all the Kuwaiti property in question are false.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(Signed) Mohammad A. ABULHASAN
Permanent Representative

Annex

[Original: English]

MINISTRY OF DEFENCE, MATERIALS NOT RETURNED FROM IRAQ

Equipment belonging to the Armed Forces/not returned

Line	Quantity	Description
001	1	P-19 EARLY-WARNING RADAR
002	5	COMMAND VEHICLES
003	12	COMBAT VEHICLES
004	6	TZM TRANSPORT AND MAINTENANCE EQUIPMENT
005	3	MAINTENANCE VEHICLE
006	1	MISSILE TEST VEHICLE
007	7	TEST VEHICLE
008	3	SPARE PARTS VEHICLE
009	1	TRAINING SIMULATOR
010	212	MISSILES
011	245	BMP-2 ARMOURED PERSONNEL CARRIER
012	173	M-133
013	100	FAHD ARMOURED PERSONNEL CARRIER
014	10	M-88
014A	6	CENTURION
015	1 600	PICK-UP
016	35	WRECKER TRUCK
017	600	MERCEDES JEEP
018	86	MERCEDES TANK TRANSPORTER
019	39	STEYR TRUCK
020	400	EGYPTIAN JEEP
021	46	MERCEDES 2624 TRACTOR-TRAILER
022	40	MAGIRUS 4 X 6 CARRIER
023	108	MERCEDES 113 TRUCK
024	150	MERCEDES UNITED NATIONS IRAN-IRAQ MILITARY OBSERVER GROUP (UNIIMOG)
025		WATER AND CARGO TRAILER 14 TON, 450/100 GALLON
026	25	816 AMERICAN WINCH
027	450	M-151 AMERICAN JEEP
028	75	GENERAL MOTORS CORPORATION (GMC) PICK-UP (BORDER GUARD)
029	150	PICK-UP (BORDER GUARD)
030	10	VOLVO FUEL TANKER
031	200	MISCELLANEOUS DODGE VEHICLES/REFRIGERATION/WATER TANKERS
032	45	NEW CAPRICE CAR
033	5	FORD PICK-UP
034	42	USED CAPRICE CAR
035	100	TOYOTA/NISSAN/MITSUBISHI JEEP
036	168	LAND ROVER
037	250	NEW AND USED GMC AND DODGE SERVICE PICK-UP
038	120	CIVILIAN CHEVROLET/GMC TRUCK
039	24	TRACTOR-TRAILER

Line	Quantity	Description
040	2	CONTAINER HOIST
041	2	TOKYO HOIST
042	4	20-TON HOIST
043	60	FORK LIFT
044	20	TATA BUS
045	27	HUNGARIAN BUS
046	26	MITSUBISHI/NISSAN BUS
047	24	BLUEBIRD/INTERNATIONAL 25-SEAT BUS
048	30	UNIIMOG AMBULANCE
049	16	GMC AMBULANCE
050	22	AMBULANCE
051	81	MISCELLANEOUS FIRE, RESCUE AND TANKER TRUCKS
052	150	HONDA/OVERSON MOTORCYCLES
053	4	MERCEDES 113 COMMAND VEHICLES
054	8	MOBILE STORES
055	6	MERCEDES WORKSHOP
056	6	M-84
057	24	BMB MOBILE WORKSHOP
058	8	TRAINING SIMULATOR
059	1	TRAINING TANK
060	3 500	MISSILE
061	56	TOW MISSILE, M-901 VEHICLE-MOUNTED
062	3 750	TOW MISSILE, M-901 VEHICLE-MOUNTED
063	1 950	IMPROVED MISSILE
064	1 800	REGULAR MISSILE, JEEP-MOUNTED
065	48	BRITISH/AMERICAN 81-MM GUN
066	12	SOVIET LUNA LAUNCHER, WITH MONITORING STATION AND COMMAND VEHICLES
067	120	LUNA MISSILE
068	5	AMOUN BATTERIES
069	230	HIGH-FREQUENCY EQUIPMENT, MISCELLANEOUS
070	3 242	VERY HIGH-FREQUENCY EQUIPMENT
071	375	MOBILE EQUIPMENT
072	488	MANUAL EQUIPMENT
073	112	FIXED EQUIPMENT
074	49	MONITORING BOXES
075	966	27-FOOT ANTENNA
076	203	OPEN ANTENNA
077	78	16-METRE ANTENNA
078	19	MOBILE TOWER
079	545	VEHICLES, FITTED FOR RADIO
080	34	MOBILE COMMAND POST VEHICLE
081	554	EQUIPMENT TRAILER
082	1 373	FIELD TELEPHONE
083	1 708	WIRE REELS
084	180	LINE-LAYING EQUIPMENT
085	85	LINE-LAYING VEHICLE
086	19	MAIL SERVICE VEHICLE
087	204	ELECTRIC CHARGER
088	30	ELECTRICITY GENERATOR

Line	Quantity	Description
089	98	POWER ENGINE
090	2 140	BATTERIES, FITTED FOR RADIO
091	366	REGULAR BATTERIES
092	837	NICKEL BATTERIES
093	28	LONG-LIFE BATTERIES
094	30	HC-440 FAX MACHINE
095	159	FIELD TELEPHONE EXCHANGES
096	7	MISCELLANEOUS EQUIPMENT
097	5	FIRE CONTROL UNIT, AMOUN MISSILE SYSTEM
098	10	LAUNCHER, AMOUN MISSILE SYSTEM
099	10	DUAL 35-MM GUN, AMOUN MISSILE SYSTEM
100	15	GUN GENERATOR, AMOUN MISSILE SYSTEM
101	18	MISSILE TRANSPORTER TROLLEY, AMOUN MISSILE SYSTEM
102	24	MISSILES, AMOUN
103	2	MISSILE TEST STATION, AMOUN MISSILE SYSTEM
104	48	MISSILE LAUNCH BINS, AMOUN MISSILE SYSTEM

Equipment belonging to the Air Force/not returned from Iraq

Line	Quantity	Description
1	63	20-MM GUN MAG
2	51	ADPT ADU-299A/A
3	57	ADPT AERO 74A
4	32	ADPT AERO 75A
5	12	AERO 39B
6	19	AERO 7A3
7	1	BATTERY CHARGER PP-6681A/AWM
8	2	DIGITAL MULTI MTR
9	31	LAU 7A-6 ROCKET LAUNCHER
10	167	LAU-10 ZUNI POD
11	11	MER A/A37B-6
12	3	MHU-64 FRAME
13	39	MHU-65E
14	2	MK 7 TOOL PRIMER SHIELD
15	3	NITROGEN RECEIVER
16		H "RACK, BOMB MK-79 RH"
17	8	SUU-25 FLARE POD
18	49	TER A/A37B-5
19	1	TTK242C/A37B FUZE TEST SET
20	10	WEAPONS TRAILER

Aviation munitions belonging to the Air Force/not returned from Iraq

Line	Quantity	Description
001	13	MK82, 500LB BOMB
002	7	MK84, 2,000LB BOMB
003	2	MK82, BOMB INERT
004	1	MK84, BOMB INERT
005	621	T45 M148E1 BOOSTERS
006	3	18 EXTENSION
007	32	36 EXTENSION
008	64	FIN ASSY MK-84 CON
009	642	M904/E4 FUZE
010	94	MK 344 TAIL FUZE
011	113	M9 DELAY ELEMENTS
012	8 957	MK-2 MOD 0 CART
013	1 438	CCU-45 IMPULSE CART
014	897	MK-15 MOD 4 SNAKEYE FIN ASSY
015	1 551	MK-76 PRACTICE BOMB
016	1 584	MK-106 MOD 4 PRACTICE BOMB
017	11	MK-106 MOD 5 PRACTICE BOMB
018	83	AIM-9H SIDEWINDER MISSILE
019	151	LUU-2 B/B FLARES
020	1 483	MK-71 5 SOLID FUEL ROCKET MOTOR
021	355	MK-63 MOD 0 5 WARHEAD
022	118	MK-32 5 "WARHEAD"
023	19	SMOKE SIGNAL CART
024	3	SUPER MATRA S-530
025	6	SUPER MATRA S-530 TRAINING
026	10	MATRA R-530
027	22	MAGIC R-550 ROCKET MOTOR
028	1	MAGIC R-550 ROCKET MOTOR INERT
029	49	MAGIC R-550 WARHEAD
030	1 595	MK-6 MOD 7 INERT WARHEAD
031	531	MK-2 951 FUSES
032	406	SAMP 76 5 3 KG TRAINING BOMB
033	1 066	SAMP 76 6 2 KG TRAINING BOMB
034	311	SAMP FAT BOY 540
035	42	SAMP TYPE 200E FIN ASSY
036	114	MK-20 MOD 0 CBU BOMB
037	55	FUZE A/C 947 MK-1
038	12	IGNITER FIRE BOMB
039	42	FLARE HELI NO 1 MK 5
040	18	FLARE YELLOW 45 SEC DELAY
041	19	FLARE BLUE 75 SEC DELAY
042	147	FLARE SIGNAL MK-2
043	551	FLARE SIGNAL MK-3 RED
044	4 834	ARMING WIRE MK-3
045	8 054	ARMING WIRE MK-9
046	940	MK-122 SAFETY SWITCH
047	679	5" WARHEAD ROCKET MK-24 MOD 0
048	1 653	FUZE 5" WARHEAD MK-188 MOD 0

Line	Quantity	Description
049	343	FUZE 5" WARHEAD MK-93
050	83 950	20 MM T P MK-105 MOD 1
051	5 010	MK-4 MOD 3 SIGNAL CART
052	8 671	MK-71 MOD 0 5" ROCKET MOTOR
053	26	MK-4 MOD 2 CART DELAY
054	87 377	CART 20MM MK-106
055	44	IGNITER MK-11
056	176	IGNITER MK-99
057	61	IGNITER MK-53
058	2 146	CART 20MM INERT
059	3 356	CART 20MM MK-109
060	2	FUSE BOMB MK376-MOD-0 INERT
061	1	FUSE BOMB MK-344-MOD-1 INERT
062	30	INITIATER CART DELAY 30SEC
063	76	SINGLE KIT-ILLUMINATION MK-79/MOD-0
064	15	THRUSTER CART MK-13
065	12	INITIATER CART JAU220A
066	9	WARHEAD AIM-9H
067	3	GUIDANCE CONTROL GROUP AIM-9H
068	8	EXPLOSIVE POWDER DEVICE
069	150	SUSPENSION BAND ASSEMBLY-FLARE
070	251	FLARE KIT DISPENSER
071	75	NOSE PLUG-SOLID MK-80 SERIES BOMB
072	16	LAU-10 ROCKET LAUNCHER
073	95	CART IMPULSE CCU-33A
074	5 004	ROCKET PRACTICE 68MM TYPE 252-3
075	10 344	ROCKET HEAT HEAD 68MM TYPE 253
076	106	FIRING ROCKET LAUNCHER 68MM
077	8 873	CART 30MM AIR TO AIR TYPE 6522
078	5 320	CART 30MM TYPE 5960
079	272	BOMB HE-400KG TYPE 21C
080	100	FUSE BOMB TYPE 905E TAIL
081	101	FUSE BOMB TYPE 13 NOSE MATRA
082	100	ARMING ASSEMBLY ATU-35 AB
083	100	RETARD M-9 025SEC DELAY UNIT
084	85	RETARD M-9 SANS DELAY
085	278	BOOSTER EXPLORER M5-B
086	178	CONTAINER PARACHUTE ASSEMBLY EMC-40
087	178	FUSE TYPE 19
088	21	ROCKET LAUNCHER 155 MIRAGE
089	103	ARMING WIRE SWAMP MALE FZ1
090	2 933	CART PYRIOTECHNICS
091	69	CART EXPLOSIVE BOLT
092	9	GENERATOR, GAS
093	2 160	INITIATER F-71A
094	10	R550 DUMMY MISSILE ELECTRONIC SECTION
095	10	R550 DUMMY MISSILE PYRO SECTION
096	2 550	CART PRACTICE BOMB SIGNAL SMOKE
097	45	IGNITER S-530
098	10	R550 DUMMY MISSILE ELECTRONIC SECTION

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Line	Quantity	Description
099	10	R550 DUMMY MISSILE PYRO SECTION
100	2 550	CART PRACTICE BOMB SIGNAL SMOKE
101	45	IGNITER S-530

1. The L100-30 (C-130) aircraft is still in Iraq. Efforts for its return are still in process.

2. Eight Mirage aircraft, together with seven engines and miscellaneous spare parts, have not been returned.

3. The number of Strela missiles in the possession of the Iraqi regime and yet to be returned are:

(a) Strela 2: 3,343 each

(b) Strela 3: 483 each

4. Six (6) Tiger radar systems.

Central Bank of Kuwait, material not returned from Iraq

Line	Quantity	Description
001	46 251 292 000	KUWAIT DINAR BANK NOTES

Central Library of Kuwait, material not returned from Iraq

Line	Quantity	Description
001	140	MANUSCRIPTS
002	128	ANTIQUE MUSICAL INSTRUMENTS
003	3 200	CASSETTE TAPES FROM THE AUDIO-VISUAL MATERIALS LIBRARY CONSISTING OF RECORDINGS OF CULTURAL SEMINARS AND LECTURES HELD SINCE 1968 AT VARIOUS CENTRES AND LOCATIONS IN THE COUNTRY
004	6 000	CASSETTE TAPES FROM THE MUSIC LIBRARY WITH RECORDINGS OF SONGS CONNECTED WITH THE GULF, ARAB AND ISLAMIC HERITAGE
005	5 000	REELS OF MICROFILM OF KUWAITI DAILY NEWSPAPERS, MANUSCRIPTS, RARE BOOKS AND PERIODICALS
006	2	SIX-DRAWER METAL DESK WITH WOODEN TOP
007	3	OFFICE SHELVING
008	15	TWO-DOOR WOODEN CABINET
009	4	SET OF FOUR-SEAT FABRIC SOFAS
010	46	TWO-DRAWER METAL DESK WITH WOODEN TOP
011	286	WOODEN FABRIC COVERED CHAIR
012	17	TWO-SIDED CABINET

Line	Quantity	Description
013	1	CAMERA
014	1	WOODEN TABLE
015	1	CAMERA
016	2	FOUR-DRAWER METAL CABINET
017	1	20-DRAWER INDEX-CARD CABINET
018	7	60-DRAWER INDEX-CARD CABINET
019	6	12-COMPARTMENT WOODEN BOX FOR CENTRAL CATALOG
020	4	THREE-DRAWER INDEX-CARD CABINET
021	38	ROUND TABLE
022	10	GLASS-FRONTED METAL CABINET
023	1	OFFSET PRINTING MACHINE
024	1	SMALL ABR 900 MICROFILM MACHINE WITH CARRIER
025	2	BALLEAL MICROFILM MACHINE
026	2	CANON NP 580 MICROFILM PRINTER
027	18	THREE-SEAT SOFA
028	396	DOUBLE-SIDED WOOD AND METAL BOOKSHELVES
029	2	IBM TYPEWRITER (ENGLISH)
030	4	MONITORING DEVICE
031	6	IBM TYPEWRITER (ARABIC)
032	24	FABRIC-COVERED METAL SWIVEL CHAIR
033	15	FABRIC-COVERED SWIVEL CHAIR
034	3	IBM COMPUTER MONITOR
035	5	BULLETIN BOARD
036	6	SEVEN-DRAWER CABINET
037	6	PARTITION
038	2	RECEPTION COUNTER
039	4	LARGE CATALOGUING AND SORTING TABLE
040	2	REDSTONE COMPUTER
041	3	IBM COMPUTER
042	13	LEATHER-COVERED WOODEN CHAIR
043	3	ADLERS TYPEWRITER (ARABIC)
044	3	ADLERS TYPEWRITER (ENGLISH)
045	3	OLYMPIA TYPEWRITER
046	2	REDSTONE COMPUTER PRINTER
047	1	REODEX 330 COPYING MACHINE
048	1	CANON FAX MACHINE
049	2	JVC VIDEO
050	2	24" SONY TELEVISION
051	14	SIX-SHELF LIBRARY DISPLAY UNIT
052	5	CLOSED CIRCUIT TELEVISION SYSTEM
053	14	CENTRAL AIR-CONDITIONING MACHINE
054	3	CANON CALCULATOR
055	2	TELEPHONE EXCHANGE

Kuwait aviation fuels company, materials not returned from Iraq

Line	Quantity	Description
001	1	REFUELER, MERCEDES 2626, F-301, 65,000 LTR
002	1	REFUELER, MERCEDES L-1213, F-304, 10,000 LTR
003	1	REFUELER, MERCEDES 2626, F-305, 65,000 LTR
004	1	REFUELER, MERCEDES 2626, F-306, 65,000 LTR
005	1	REFUELER, MERCEDES L0911, DW-201, 6,000 LTR
006	1	DISPENSER, MERCEDES LP-608, D-106
007	1	DISPENSER, MERCEDES LP-606, D-107
008	1	DISPENSER, MERCEDES LP-608, D-108
009	1	DISPENSER, MERCEDES LP-608, D-109
010	1	DISPENSER, MERCEDES LP-608, D-110
011	1	DISPENSER, MERCEDES LP-608, D-111
012	1	DISPENSER, MERCEDES 307D, D-112
013	1	DISPENSER, MERCEDES 307D, D-114
014	1	DISPENSER, MERCEDES 307D, D-115
015	1	BRIDGER, VOLVO 1027, TU-11
016	1	BRIDGER, VOLVO 1027, TU-12
017	1	BRIDGER, MERCEDES 2624, TU-13
018	1	BRIDGER, VOLVO N-10, TU-14
019	1	BASEFOAM TANK, MERCEDES 1924, B-2
020	1	MITSUBISHI GALANT, 1985, GT-2, REG NO 1745
021	1	TOYOTA CORONA, 1988, GT-3, REG NO 3116
022	1	MITSUBISHI PICK-UP, 1986, GT-4, REG NO 2843
023	1	TOYOTA HI-LUX, 1984
024	1	TOYOTA COROLLA, 1984, GT-8, REG NO 8633
025	1	CHEVROLET PICK-UP, 1987, GT-9, REG NO 2054
026	1	CHEVROLET PICK-UP, 1983, GT-10, REG NO 2839

Establishments whose property has not been returned from Iraq

Line	Name of establishment
02	MINISTRY OF INFORMATION
03	MINISTRY OF HOUSING (PUBLIC HOUSING AUTHORITY)
04	MINISTRY OF INTERIOR
05	MINISTRY OF TRADE AND INDUSTRY
06	MINISTRY OF PLANNING
07	PORT AUTHORITY
08	AGRICULTURE AND FISHERIES BOARD
09	TREASURY
10	KUWAIT UNIVERSITY
11	KUWAIT INSTITUTE OF SCIENTIFIC RESEARCH
12	SOCIAL INSURANCE INSTITUTE
13	NATIONAL COUNCIL FOR CULTURE, ART AND LITERATURE
14	KUWAIT FOOTBALL ASSOCIATION
15	SOCIETY FOR PLASTIC ARTS
16	MINISTRY OF FOREIGN AFFAIRS
17	MINISTRY OF EDUCATION
18	DEPARTMENT OF PUBLIC TRANSPORT
19	MINISTRY OF CIVIL AVIATION

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General Assembly
Security Council

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GENERAL

A/49/468
S/1994/1127
4 October 1994

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-ninth session
Agenda item 70
MAINTENANCE OF INTERNATIONAL
SECURITY

SECURITY COUNCIL
Forty-ninth year

Letter dated 4 October 1994 from the Permanent Representative of Azerbaijan addressed to the Secretary-General

I have the honour to transmit herewith the text of an appeal by the President of the Azerbaijani Republic, Mr. Heydar Aliyev, dated 4 October 1994, to all States, Governments and international organizations, as received by fax (see annex).

I should be grateful if you would have the present letter and its annex urgently circulated as a document of the General Assembly, under agenda item 70, and of the Security Council.

(Signed) Eldar G. KOULIYEV
Ambassador
Permanent Representative

ANNEX

[Original: Russian]

Appeal addressed to all States, Governments and international organizations by the President of the Azerbaijani Republic on 4 October 1994

The Azerbaijani Republic, which is building a State based on the rule of law and conducting a policy of openness to the whole world, is in danger.

Forces controlled from outside the country are pursuing a policy aimed at the violent overthrow of the State through armed rebellion.

Relying on my people and its solemn determination to defend its statehood, freedom and independence, I am taking every possible measure to carry out its will.

In these difficult times, I appeal to all of you to do everything within your power to support the legitimate leaders of Azerbaijan and the sovereignty and independence of its people in order to prevent the triumph of violence and reaction.

UNITED
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Security Council

Distr.
GENERAL

S/1994/1128
5 October 1994

ORIGINAL: ENGLISH

LETTER DATED 4 OCTOBER 1994 FROM THE PERMANENT REPRESENTATIVE OF AFGHANISTAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Upon instruction from H.E. Mr. Najibullah Lafraie, Minister of State for Foreign Affairs of the Islamic State of Afghanistan, I have the honour to transmit a letter dated 3 October 1994 from H.E. Mr. Najibullah Lafraie addressed to you in your capacity as President of the Security Council for the month of October.

I would appreciate if arrangements could be made for its distribution as a document of the Security Council.

(Signed) Ravan FARHADI
Permanent Representative

Annex

Letter dated 3 October 1994 from the Minister of State for Foreign Affairs of Afghanistan addressed to the President of the Security Council

I have the honour respectfully to bring the following to your attention in your capacity as President of the Security Council of the month of October.

In spite of a number of Afghan initiatives and approaches through bilateral and multilateral channels aimed at stopping Uzbekistan's clear interference in its internal affairs and interventions on the territory of Afghanistan, regrettably, once again it is noticed that Uzbekistan is resorting to renewed and wider-ranging hostile actions in clear violation of the internationally accepted norms concerning relations among States. As announced in the past, Uzbekistan has been providing the opposition elements of Afghanistan with extensive military facilities from the port of Termez, a city situated in Uzbekistan on the right bank of the Oxus, including heavy and light weaponry and ammunition.

Your attention and that of the Security Council is hereby draw to the fact that, according to the available evidence, following the set-back of the Dostum militia forces in the strategic passage of Irganak, Kunduz Province, a number of war-planes from the armed forces of Uzbekistan conducted numerous military missions from Termez base on Tuesday, 27, Wednesday, 28 and Thursday, 29 September 1994, violating Afghan airspace and bombarding the city of Kunduz as well as its outskirts.

As a result of these aggressive air raids, a large number of the innocent civilian population have been killed and wounded and many houses have been demolished. Subsequent to these acts of aggression, evidence proved the existence of four aircraft provided in the course of the last 10 days by the Uzbekistan authorities to Dostum militias. The aircraft are presently stationed at the Sheberghan base.

In view of the continued occurrence of these violations, Afghanistan believes that the possibility of assigning a United Nations monitoring team to the border between the two countries should be seriously considered.

The Ministry of Foreign Affairs of Afghanistan delivered a letter of protest to the Uzbek authorities on 3 October 1994.

Based upon its deep conviction and respect for the internationally accepted norms governing relations among States and in the meantime on the basis of Afghanistan's desire not only to maintain but to expand friendly relations with its neighbours, anticipating that you, on behalf of the Security Council, will draw the attention of the Uzbek authorities to the consequences of their acts of aggression against Afghanistan and ensure their termination, Afghanistan at this stage has refrained from resorting to any reprisal.

For the sake of the record, it is to be emphasized that, in the event of a recurrence of such hostile action and aggression, Afghanistan will undertake appropriate actions.

At the time when Afghanistan is engaged in undertaking measures and programmes for ensuring ever more peace and stability in the country through the elimination and purge of those elements that continue to disturb peace and normalcy for their heinous ambitions, on the basis of a committed sense of friendship and good neighbourliness, Afghanistan is expecting its neighbours to be supportive of the national efforts for peace and stability under way in the country.

(Signed) Najibullah LAFRAIE
Minister of State for Foreign Affairs

UNITED
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General Assembly
Security Council

Distr.
GENERAL

A/49/473
S/1994/1129
5 October 1994

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-ninth session
Agenda item 148
THE SITUATION IN THE OCCUPIED
TERRITORIES OF CROATIA

SECURITY COUNCIL
Forty-ninth year

Letter dated 4 October 1994 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith a copy of the letter that I have today forwarded to the President of the Security Council (see annex).

I kindly request your assistance in circulating the present letter and its annex as a document of the General Assembly, under agenda item 148, and of the Security Council.

(Signed) Mario NOBILO
Permanent Representative

ANNEX

Letter dated 4 October 1994 from the Permanent Representative of Croatia to the United Nations addressed to the President of the Security Council

In accordance with instructions from my Government, I must express the deep indignation of the Republic of Croatia with regard to the report of the Co-Chairmen of the Steering Committee of the International Conference on the former Yugoslavia on their Mission to the Federal Republic of Yugoslavia (Serbia and Montenegro), distributed by the Secretary-General in his letter of 3 October 1994 (S/1994/1124).

Without entering into a debate on whether there is de facto sufficient ground to declare that the Federal Republic of Yugoslavia (Serbia and Montenegro) is meeting its commitment to close its border with the areas of the Republic of Bosnia and Herzegovina under the control of the Bosnian Serb forces based on a report of only 93 members of the "Mission", the Republic of Croatia is shocked by paragraph 3 of the annex to document S/1994/1124. The Co-Chairmen submit that "... As far as transit traffic to the Republic of Croatia is concerned, agreements have been made covering customs documentation and the sealing of load-carrying vehicles to reduce the obvious risk of a diversion of supplies to the Bosnian Serbs".

There is no doubt that the quoted part of the report does not relate to humanitarian supplies distributed by international humanitarian organizations or agencies. Had that been the case, those shipments would not have been a subject of interest to the Mission, since the Belgrade authorities never indicated their willingness to deprive their Bosnian and Croatian proxies of food and medical supplies. More important, the Mission is to monitor supplies other than humanitarian supplies going to the Bosnian Serbs, and in particular strategic goods.

In the view of my Government, this action represents a clear and blatant violation of Security Council resolution 820 (1993) of 17 April 1993 in which the Council decided that "import to, export from and transshipment through the United Nations Protected Areas in the Republic of Croatia and those areas in the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces, with exception of essential humanitarian supplies, including medical supplies and foodstuffs distributed by international humanitarian agencies, shall be permitted only with proper authorization from the Government of the Republic of Croatia or the Government of the Republic of Bosnia and Herzegovina, respectively".

The shipments that the Mission is monitoring, and that are, according to the report, destined "as transit traffic to the Republic of Croatia", do not have the required authorization of the Croatian Government to be imported into the territory of the Republic of Croatia. Further, the Government of the Republic of Bosnia and Herzegovina has informed us that it has not issued proper authorization for their transshipment through their territory "controlled by Bosnian Serb forces".

The Government of the Republic of Croatia is outraged by the fact that the Mission of the International Conference on the former Yugoslavia, acting under the mandate given by the Security Council, is not only tacitly allowing the constant flow of supplies to Belgrade proxies in the occupied territories of the Republic of Croatia, but is "making agreements" to facilitate violation of Council resolutions. Such action is seriously jeopardizing the sovereignty of the Republic of Croatia over its own territory, and my Government cannot tolerate it.

This biased and illegal action of the International Conference on the former Yugoslavia does not contribute to the overall peace process and the stability in the region. Further, this action will not be helpful to the Croatian Parliament when it debates the future of the United Nations presence on Croatian territory within 100 days. Our deliberations shall be influenced by the actions of the international community, and in particular the Contact Group, with regard to the sovereignty and territorial integrity of the Republic of Croatia, and the restoration of the legitimate authority over its entire territory.

Croatia demands that the Security Council act immediately in respect of the obvious violation of resolution 820 (1993) by the monitor Mission of the International Conference on the former Yugoslavia, consistent with its previous decisions.

(Signed) Mario NOBILO
Permanent Representative

UNITED
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Security Council

Distr.
GENERAL

S/1994/1130
5 October 1994
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 4 OCTOBER 1994 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to inform you that, during the period from 21 to 30 September 1994, United States aircraft continued to violate Iraqi airspace for the purpose of reconnaissance and provocation.

21 September 1994

(a) Northern region: 19 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Zakho, Dohuk, Aqrah, Amadiyah and Rawandoz.

(b) Southern region: 43 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Samawah, Nasiriyah, Jalibah, Busayyah, Artawi and Salman.

- At 1240 hours on 21 September 1994 a United States TR-1 reconnaissance aircraft violated Iraqi airspace, flying at a speed of 600 km/h and at an altitude of 20,000 m over Qurnah, Amarah, Shatrah, Rifa'i, Samawah and Salman. It departed at 1455 hours, heading in the direction of Saudi Arabia.

22 September 1994

Southern region: 35 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Nasiriyah, Samawah, Salman, Amarah, Busayyah, Jalibah and Artawi.

24 September 1994

(a) Northern region: 13 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Dohuk, Zakho, Amadiyah, Aqrah, Atrush and Sarsank.

(b) Southern region: 44 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Basra, Samawah, Nasiriyah, Chabaish, Salman, Busayyah, Jalibah and Artawi.

- At 1142 hours on 24 September 1994 a United States TR-1 reconnaissance aircraft violated Iraqi airspace, flying at a speed of 600 km/h and at an altitude of 20,000 m over Nasiriyah, Amarah, Qal'at Salih, Rifa'i, Shanafiyah, Qurnah, Basra, Faw and Artawi. It departed at 1505 hours, heading in the direction of Saudi Arabia.

25 September 1994

(a) Northern region: 11 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Mosul, Irbil, Dohuk, Zakho, Tall Afar, Amadiyah and Ayn Zalah.

(b) Southern region: 36 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Samawah, Salman, Qurnah, Ushbayjah, Busayyah, Artawi and Jalibah.

26 September 1994

(a) Northern region: 21 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Mosul, Irbil, Dohuk, Tall Afar, Amadiyah and Ayn Zalah.

(b) Southern region: 38 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Nasiriyah, Samawah, Salman, Qurnah, Jalibah, Basrah and Artawi.

- At 1255 hours on 26 September 1994, a United States TR-1 reconnaissance aircraft violated Iraqi airspace, flying at a speed of 600 km/h and at an altitude of 20,000 m over Artawi. It departed at 1620 hours, heading in the direction of Saudi Arabia.

27 September 1994

(a) Northern region: 17 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Mosul, Irbil, Dohuk, Zakho, Tall Afar, Amadiyah and Aqrah.

(b) Southern region: 26 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Nasiriyah, Samawah, Qurnah, Salman, Jalibah, Artawi, Qal'at Salih and Ushbayjah.

28 September 1994

(a) Northern region: 21 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Mosul, Irbil, Dohuk, Tall Afar, Zakho, Aqrah and Amadiyah.

(b) Southern region: 26 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Nasiriyah, Samawah, Basra, Qurnah, Salman, Busayyah, Jalibah and Artawi.

29 September 1994

(a) Northern region: 23 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Mosul, Irbil, Dohuk, Tall Afar, Zakho, Amadiyah and Ayn Zalah.

(b) Southern region: 28 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Nasiriyah, Samawah, Salman, Artawi, Jalibah and Busayyah.

30 September 1994

Northern region: 26 sorties, flown at speeds of 600-900 km/h and at medium altitude, centred on Mosul, Irbil, Dohuk, Tall Afar, Zakho and Amadiyah.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

UNITED NATIONS **S**

Security Council

Distr.
GENERAL

S/1994/1131
5 October 1994
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 4 OCTOBER 1994 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I should like to bring to your attention the conclusions reached by specialized groups at the University of Baghdad and other scientific institutions regarding the adverse effects on the health of Iraqi citizens which became apparent after the aggression against Iraq that began on 4 January 1991 and which were caused by the use by some of the States belonging to the coalition of uranium-based chemical poisons as well as of depleted uranium for the first time in the history of war.

The principal effects of the use of chemical poisons and depleted uranium are as follows:

1. The appearance of contagious diseases, which have increased by more than 200 per cent, as well as of a hitherto unknown disease that cannot be diagnosed and includes among its symptoms blurred vision in one eye, loss of peripheral vision, severe migraine headaches and swelling of the hands and fingertips. These symptoms first appeared six months after the end of the war;

2. The appearance of cases of juvenile diabetes;

3. An increase in the incidence of cancer, including infantile and juvenile leukaemia;

4. The appearance of cases of birth defects and congenital illnesses in newborns, together with associated diseases;

5. An increase in cases of unexplained sterility in both sexes, attributable, at least in part, to the psychological, radiological and biological effects of the aggression, shelling and noise;

6. A major increase in the number of miscarriages, premature births, stillbirths and difficult deliveries.

In this connection, we would remind you that the coalition armies left approximately 40 tons of depleted uranium in southern Iraq, spread over the battlefields, which have seriously contaminated the air, water, soil and food

chain, as noted in a March 1993 report entitled "Uranium battlefield, home and abroad (depleted uranium used by the U.S. Department of Defense)", by Grace Bukowski and others, and in an article by Eric Hoskins published in The New York Times of 21 January 1993, entitled "U.S. uranium shells used in the Gulf War may be killing Iraqi children".

Furthermore, a report prepared by German doctors states that a strange illness which causes abdominal inflammation is affecting children; this illness is partly attributable to the effects of depleted uranium missiles used by the coalition forces during their aggression against Iraq in 1991.

The embargo on foodstuffs and medicines has also led to the appearance of cases of malnutrition and acute anaemia, which has directly or indirectly affected the health of children, women and the elderly, leading in turn to an increase in mortality attributable to these social causes.

These violations can be considered war crimes, since they contravene the laws and practices of war; accordingly, States and individuals can be held responsible for them.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

UNITED NATIONS **S**

Security Council

Distr.
GENERAL

S/1994/1132
5 October 1994
ENGLISH
ORIGINAL: SPANISH

LETTER DATED 4 OCTOBER 1994 FROM THE PERMANENT REPRESENTATIVE OF HONDURAS TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I should like to inform you that the Government of Honduras has decided to participate in the second phase of the democratization process in Haiti, under the provisions of Security Council resolution 940 (1994) of 31 July 1994.

I should be grateful if you would arrange to have this note circulated as a Security Council document.

(Signed) Gerardo MARTINEZ BLANCO
Ambassador
Permanent Representative

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Distr.
GENERAL

S/1994/1133
6 October 1994

ORIGINAL: ENGLISH

PROGRESS REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS ASSISTANCE MISSION FOR RWANDA

I. INTRODUCTION

1. The present report is submitted in pursuance of paragraph 17 of Security Council resolution 925 (1994) of 8 June 1994, by which the Council requested me to report by 9 August and by 9 October 1994 on progress made by the United Nations Assistance Mission for Rwanda (UNAMIR) in the discharge of its mandate, the safety of populations at risk, the humanitarian situation and progress towards a cease-fire and political reconciliation.

2. Since my last report on the situation in Rwanda, dated 3 August 1994 (S/1994/924), the Secretariat has provided the Security Council with oral updates on relevant developments, especially with regard to the Mission's support for humanitarian operations, efforts to accelerate the return of refugees, progress made in the deployment of the expanded UNAMIR and the UNAMIR take-over from Operation Turquoise.

II. POLITICAL ASPECTS

3. As members of the Security Council are aware, since the cease-fire declared on 18 July 1994, the fighting in Rwanda has all but ceased. The Broad-based Government of National Unity (BBGNU), installed at Kigali on 19 July, has established control over the whole of the national territory. While over two million Rwandese refugees remain in the neighbouring countries, the Government has undertaken efforts, in coordination with my Special Representative and other United Nations officials on the ground, to encourage their safe and voluntary return to Rwanda. At the same time, there is steady progress in efforts to normalize the situation inside Rwanda, with the gradual re-establishment of such basic services as water, electricity and communications facilities, particularly at Kigali. The Government has also begun to put civilian administrative structures in place at the central, provincial and local levels. My Special Representative has circulated to donor countries, United Nations agencies and non-governmental organizations, a Rwanda Emergency Normalization Plan, outlining the priority services for which both technical and financial assistance are required.

4. While initial progress has been made in normalizing the situation, the Government is faced with the arduous task of rebuilding a country where the social and physical infrastructure has been almost totally destroyed and where a deep mistrust continues to prevail between the various political and ethnic groups that make up Rwandese society. The Government has a difficult road ahead in establishing safety and security for all and in creating a climate where those who have participated in the genocide can be held accountable while others rebuild their lives without fear of revenge or retribution. Furthermore, the Government suffers from a severe lack of basic resources, including cash reserves to pay the salaries of its civil servants, banks having been looted during the fighting. This is a serious problem, as civil servants and the military may turn to other means of ensuring an income.

5. In order to create stability and lasting peace in Rwanda, the Government seems to recognize the need to include all its citizenry, regardless of ethnicity, within its administrative and security structures. The President of Rwanda has assured my Special Representative that efforts are continuing to make the Government more inclusive by inviting some members of the Mouvement républicain national pour le développement (MRND), which is the only major political party not presently represented in the BBGNU, to join the Government. However, these efforts have not yet produced positive results.

6. In a further effort towards national reconciliation, members of the former Rwandese Government Forces (RGF) are being encouraged to join the new national army. These soldiers have the choice of registering at specified centres, set up by the Government, or with UNAMIR personnel deployed in the country. It seems, however, that the response to this government initiative remains limited.

7. In order to promote national reconciliation and assure the population that their civil and human rights will be respected, the Government has continued to organize mass rallies in several cities, including Ruhengeri, Kibungo, Byumba, Kibuye, Gikongoro, Cyangugu and Butare. Through these rallies, the Government has attempted to address the population's concerns with regard to such issues as property rights and the fair treatment by the Rwandese judicial system of those accused of crimes against humanity.

8. During the month of August, members of the Government made several visits to refugee camps in Zaire in an attempt to encourage the refugees to return voluntarily to their places of origin. Those efforts have caused some increase in the numbers of returning refugees. Some 360,000 refugees have returned to Rwanda spontaneously since the cease-fire on 18 July. The Government has expressed its concern about the presence in the camps of elements who continue to incite people to flee from Rwanda and to threaten those in the camps from returning to their homes and farms in Rwanda. In September, reports and preliminary investigations pointed to the possibility that refugees returning to Rwanda might have been subjected to reprisals by government troops; further investigations are in progress (paras. 14 and 15 below).

9. The misinformation propagated during and after the hostilities is considered to have been a major factor in inciting the massacres and subsequent exodus of refugees into neighbouring countries. Information remains an important element in creating both stability in the country and a climate

conducive to the safe and voluntary return of refugees and displaced persons. Rwanda has no newspapers or television, and radio is the only medium of information. UNAMIR, in association with concerned United Nations agencies, is therefore developing a broadcasting capability in order to provide the Rwandese people with factual information on the situation in their country, to assist in explaining UNAMIR's mandate and to disseminate information on humanitarian programmes. UNAMIR is currently installing at Kigali an FM broadcasting capability with a 20-kilometre range. Additional equipment, which would enable UNAMIR broadcasts to cover the whole country, is being procured and the necessary specialists recruited. UNAMIR has also asked the Rwandese authorities for formal authorization to begin broadcasting and for a frequency allocation. I hope the Government will respond positively to those requests in the near future.

III. HUMAN RIGHTS ASPECTS

10. A Commission of Experts was established on 26 July 1994 under Security Council resolution 935 (1994) of 1 July 1994 to examine and analyse information concerning grave violations of international humanitarian law committed in the territory of Rwanda, including evidence of possible acts of genocide. The Commission started its work on 15 August 1994 and visited Rwanda as well as Burundi, the United Republic of Tanzania and Zaire from 29 August to 17 September. In accordance with resolution 935 (1994), the Commission is to report its findings to me by 30 November 1994. I have, however, asked the Commission to expedite the preparation of its report. Accordingly, the Commission submitted to me on 30 September a preliminary report which I have made available to the Council (S/1994/1125).

11. During the Commission's visit to Rwanda, the Government urged the Commission to conclude its work expeditiously and also urged that an international tribunal, along the lines of that organized for the former Yugoslavia, be created. The Government expressed the view that the trial of those accused of serious breaches of international humanitarian law and acts of genocide by an external impartial body would help promote peace and reconciliation among the parties and contribute to the stabilization of the situation in Rwanda. The Government has given assurances that it will make every effort to prevent summary trials, revenge executions and other acts of violence and that it will arrest those accused of such crimes.

12. On 25 May 1994, the Commission on Human Rights, in its resolution S-3/1, appointed a Special Rapporteur to report on the root causes of the recent atrocities and on the ongoing human rights situation in Rwanda. Under this mandate, the United Nations High Commissioner for Human Rights has deployed human rights officers to Rwanda to assist the Special Rapporteur in the implementation of his functions. Following the establishment of the Commission of Experts, I reported to the Security Council, on 26 July 1994 (S/1994/879), that the Commission would be based at Geneva and benefit from the resources of the High Commissioner for Human Rights and, in particular, those already made available to the Special Rapporteur. Subsequently, it became apparent that a much larger number of human rights staff would be required to deal with the extremely complex situation in Rwanda. Therefore, the High Commissioner for

Human Rights, on 2 August 1994, launched an appeal to the international community for voluntary contributions to expand human rights activities in the field. As at 30 September 1994, the High Commissioner had deployed 31 human rights officers to Rwanda. In accordance with an agreement reached with the Government during his second visit to the country on 19 and 20 August 1994, he intends to increase that number to 147 as soon as possible so as to cover each one of the communes in Rwanda.

13. The objective of the human rights field operation in Rwanda is to carry out investigations into violations of human rights and humanitarian law; to monitor the ongoing human rights situation and, through the presence of human rights officers, help redress existing problems and prevent possible human rights violations from occurring; to cooperate with other international agencies in re-establishing confidence and thus facilitate the return of refugees and displaced persons and the rebuilding of civil society; and to implement programmes of technical cooperation in the field of human rights, particularly in the area of administration of justice. Following a request from the High Commissioner, UNAMIR is providing assistance within its existing resources in order to enable the human rights officers already deployed to become fully operational. That assistance will continue as further human rights staff are deployed.

14. The United Nations High Commissioner for Refugees sent a mission to Rwanda in August to assess how far conditions existed for the safe return to that country of refugees who had fled to Burundi, the United Republic of Tanzania and Zaire. In the course of its work, the mission of the Office of the United Nations High Commissioner for Refugees (UNHCR) obtained certain information that appeared to indicate that soldiers of the RPF might have been engaged in systematic killings of members of the majority community in Rwanda.

15. On 16 September, the High Commissioner briefed senior officials of the United Nations on the matter. On the basis of that briefing, I directed that the allegations should be immediately taken up with the Government of Rwanda. This was done by the Under-Secretary-General for Peace-keeping Operations, Mr. Kofi Annan, who was in Rwanda on mission at that time, and my Special Representative for Rwanda, Mr. Shaharyar Khan. The Government of Rwanda undertook to investigate the matter urgently and a team consisting of four government ministers, representatives of UNAMIR and UNHCR and a United Nations human rights monitor, paid a visit on 23 September to some of the places where the killings were alleged to have taken place. Those allegations have been reported to the Commission of Experts and to the Special Rapporteur and arrangements are now being made for a thorough investigation to be carried out under the mandate of those two mechanisms.

IV. MISSION OF MY SPECIAL REPRESENTATIVE TO ZAIRE AND THE UNITED REPUBLIC OF TANZANIA

16. The presence of former RGF political leaders, military elements and militia in the Rwandese refugee camps, especially those in Zaire, have had a destabilizing effect on security in the camps and a number of violent incidents have occurred. Refugees suspected of favouring a return to Rwanda have

frequently been attacked. The humanitarian agencies are reviewing how they can continue to deliver assistance in this insecure environment. There are also signs that ex-RGF troops located in the camps may be preparing to make incursions into Rwanda.

17. In view of that situation, I instructed my Special Representative for Rwanda to undertake a mission to Zaire and the United Republic of Tanzania to explore with the authorities of both countries ways in which the problem can be addressed. Mr. Shaharyar Khan visited Zaire from 12 to 14 September and the United Republic of Tanzania on 16 September. In Zaire, he met with President Mobutu and Prime Minister Kengo Wa Dongo. In the United Republic of Tanzania, he was received by President Mwinyi.

18. My Special Representative has reported that the Government of Zaire expressed its commitment to address the refugee crisis and to improve security in the camps. The Government of the United Republic of Tanzania had already undertaken to move certain unruly elements away from places where refugees were located. On the basis of his discussions with the Governments of Zaire and the United Republic of Tanzania, my Special Representative has recommended that attention be focused, as a matter of priority, on the camps in Zaire where the problems are significantly more acute than in the United Republic of Tanzania.

19. The population of the camps in Zaire fall into the following categories: (a) political leaders, estimated at approximately 50 heads of family; (b) uniformed military elements of the RGF, estimated at 16,000 and accompanied by their families, bringing the total to approximately 80,000; (c) militia, whose number is unknown since they have mingled with the refugees; and (d) ordinary refugees, estimated at about 1 million persons.

20. It was agreed with the Zairian authorities that the only effective way of ensuring the safety of the refugees and their freedom to exercise their right to return to Rwanda would be the separation of those in categories (a), (b) and (c) from the rest of the population of the refugee camps. The militia (category (c)) represent the greatest threat for the refugees. However, their separation from the others would be a difficult and complex undertaking, especially as they would be likely to resist, and incite others to resist, any attempt to relocate them. A strong security mechanism would be needed in order to protect both the refugees and those carrying out the operation. The separation of these persons is, however, the only means of providing security for the refugees and allowing them to choose freely to return to Rwanda.

21. While the Government of Zaire has indicated its desire to address these issues, it has also indicated that it would require substantial assistance from the international community both in financial and logistic support and in the provision of security for such an operation.

22. The Secretariat has examined my Special Representative's recommendations in consultation with UNHCR. In order to address more fully the problems of separating former RGF political leaders, military and militia from the others in the camps, and to evaluate the financial, logistic and security requirements, it was decided, during the visit of my Special Representative to Zaire, to establish a Joint Zairian/United Nations working group. The group, composed of

representatives of the Government of Zaire, UNAMIR, UNHCR and the United Nations Development Programme (UNDP), has already begun its work. A technical team from UNAMIR has been sent to Zaire to join the working group and will submit a report to my Special Representative as soon as possible.

V. MILITARY ASPECTS

23. Since the 18 July 1994 cease-fire and the formation of the BBGNU a day later, the military situation in Rwanda has been relatively calm. At that time, the armed forces of the new Government, the Rwandese Patriotic Army (RPA), had established control over the entire country, with the exception of a "humanitarian protection zone" in the south-west. That zone was under the control of Operation Turquoise, the multinational operation launched by the French Government in pursuance of Security Council resolution 929 (1994) of 22 June 1994.

24. UNAMIR maintained close cooperation at all levels with Operation Turquoise and developed a detailed plan for taking over from it on 22 August, the date of its scheduled withdrawal. On 10 August, UNAMIR began deploying troops in the zone and on 21 August it assumed responsibility from Operation Turquoise. Arrangements were made with the French Government for the continuation of logistic support until UNAMIR could assume full responsibility. The French Government has submitted to the Security Council a final report, which has been circulated as document S/1994/1100.

25. UNAMIR troops established a presence throughout the zone, ensuring stability and security and providing support for humanitarian relief operations. The Government of Rwanda also launched a concerted effort to reassure the population. As a result of those efforts, a major exodus of civilians to Zaire was averted.

26. The Government's civilian and military take-over of the south-western zone was fully coordinated with UNAMIR. The civil administration in the zone is being restored as a first priority and RPA troops are gradually being deployed there. The Government installed prefects at Kibuye, Gikongoro and Cyangugu on 6 and 7 September and in cooperation with UNAMIR deployed RPA platoons in each location. Through successive incremental deployments, those elements were increased to company- and battalion-size units. The gradual establishment of the Government's authority in the south-west zone has now been completed without incident.

27. At the same time, former RGF troops in the south-western zone are being encouraged to enlist in the new national army. In addition, a programme was started on 2 September to encourage elements of the local gendarmerie to surrender their arms voluntarily. UNAMIR has collected nearly 600 arms under the programme.

28. The RPA now operates throughout the country, conducting patrols and manning roadblocks and checkpoints to monitor personnel and vehicle movement. Occasionally, it conducts cordon and search operations for weapons or personnel checks. It also protects vital points, such as infrastructure and all major

border crossings. Additionally, in the absence of a police force, RPA troops perform policing functions to the extent possible.

29. Relations between UNAMIR and the RPA have been cordial and cooperative. However, movement restrictions have sometimes been imposed on UNAMIR troops. The formal understanding between UNAMIR and the BBGNU, particularly with reference to the United Nations Status-of-Forces Agreement with Rwanda, is that there should be no restrictions on the movement or deployment of UNAMIR personnel and vehicles throughout Rwanda. However, as illustrated by the three-week delay in providing clearance to occupy accommodation and concurrently deploy troops in the north-east and south-east (sectors 1 and 2), as well as periodic, local limitations placed on movements of UNAMIR troops in the south and north-west (sectors 3 and 5), the reality on the ground is sometimes different. In addition, some local RPA commanders have sometimes indicated that they are under instructions to deny UNAMIR access to areas where RPA troops are deployed. When such incidents are brought to the attention of senior government officials, they are usually quickly resolved.

30. The rapid reinforcement of UNAMIR in early August has contributed significantly to the improvement of the security situation in Rwanda. In accordance with its mandate, UNAMIR has continued to provide security support to all humanitarian operations in Rwanda. It has also provided support in re-establishing basic services and in the provision of relief supplies. None the less, delays in reaching the full authorized force level are hampering UNAMIR's further efforts in that regard. As at 3 October, UNAMIR's troop strength consisted of 4,270 all ranks (out of its total authorized strength of 5,500). On 19 August, the new Force Commander, Major-General Guy Tousignant (Canada), took over from Major-General Romeo Dallaire (Canada).

31. As noted above, the successful deployment of UNAMIR troops in the former humanitarian protection zone (sector 4) has provided the stability necessary to commence the gradual introduction of RPA forces to the south-west of the country. In order to facilitate that introduction, however, it has been necessary for UNAMIR to concentrate its efforts in this potentially volatile area. Accordingly, the requirement to extend UNAMIR presence throughout Rwanda is yet to be fulfilled.

32. As stability in Rwanda improves, emphasis in UNAMIR activities is shifting from purely military security-related tasks to the support of humanitarian operations aimed at assisting the population in need and facilitating the return of refugees and displaced persons to their homes.

33. In the expectation that the remaining troops committed to UNAMIR will be deployed during the coming weeks, the Force Commander plans to deploy the force in six sectors, as indicated on the map annexed to the present report. The current and planned deployment schedules are as follows:

Sector 1 (north-east) Deployment of the Nigerian independent infantry company group is in progress.

Sector 2 (south-east)	Two platoon groups from Canada and Ghana currently operate in this sector (which presently includes Kigali). Planned deployment in the sector will consist of one infantry battalion (Ghana).
Sector 3 (south)	An independent infantry company from Malawi operates in the sector. Planned deployment will consist of two independent infantry companies, one each from Malawi and Mali.
Sector 4 (south-west)	Current deployment consists of the Ghanaian Battalion, a United Kingdom field ambulance capability, the Ethiopian battalion and the inter-African battalion, composed of troops from Chad, the Congo, Guinea-Bissau, the Niger and Senegal. Planned deployment will consist of three mechanized/motorized infantry battalions (Zambia, Ethiopia and the inter-African contingent).
Sector 5 (north-west)	Although not part of UNAMIR, a Canadian field ambulance capability is currently operating in this sector. Planned deployment will consist of one infantry battalion from Tunisia, which is scheduled to commence deployment in early October.
Sector 6 (Kigali City)	Planned deployment will consist of one composite infantry battalion from India. This battalion is scheduled to be fully deployed by the end of October.

34. The main objective of the UNAMIR deployment schedule is to promote security in all sectors and to create a climate conducive to the safe return of refugees and displaced persons, as well as to support humanitarian operations. The Force Headquarters continues to operate from Kigali along with specialized communications, logistics and medical support units from Canada, the United Kingdom and Australia respectively. The United Kingdom contingent is scheduled to withdraw by 1 December and the Canadian contingent by mid-January.

35. The deployment of UNAMIR has been a difficult process, as many contingents were in need of major equipment items and as the United Nations has neither the resources in stock nor an advance budget which would ensure that the required equipment could be made available in a timely manner. It was for this reason that, in paragraph 24 of my report of 13 May (S/1994/565), I underlined the necessity for Member States to agree to make arrangements on a bilateral basis to provide the troops, equipment and airlift required for UNAMIR. As this did not occur, the Secretariat was required to identify sources of equipment and to arrange for its transport. This was a time-consuming task, which significantly delayed deployment. It also restricted the initial operational capability of UNAMIR, as contingents were in some cases unfamiliar with equipment supplied to them. One way of achieving a more rapid response in such circumstances would be the extension of the standby forces concept to include equipment, whereby a Member State would hold equipment on standby at a high state of readiness for deployment on lease terms.

36. With the induction of new contingents, the UNAMIR force strength is expected to exceed temporarily the authorized level during the period from November 1994 to January 1995. However, as at February 1995, the expected withdrawal of some contingents and normal rotations will bring it back to its authorized level. The fact that UNAMIR will exceed its authorized strength for a short period will have no financial implications for its budget, as the excess expenditure would be offset by the savings resulting from a force strength below the authorized level up to October 1994.

37. The UNAMIR authorized strength of 320 military observers has been met and military observers are deployed in all sectors. They are engaged primarily in supporting humanitarian activities and liaising with the RPA.

VI. CIVILIAN POLICE

38. As indicated in the concept of operations set out in my report of 13 May to the Security Council (S/1994/565, chap. 4), it was initially envisaged that the main task of the civilian police component of the expanded UNAMIR would be to maintain liaison with the local civilian authorities on matters relating to public security, with a total authorized strength of 90 civilian police observers.

39. However, as a result of the civil war and the ensuing collapse of the country's administrative structures, no real police force or gendarmerie remained in place when the new Government was established on 19 July. Police functions were entrusted to an embryonic gendarmerie consisting mainly of RPA soldiers. At the same time, the Government sought the urgent assistance of UNAMIR in establishing a new, integrated, national police force. Given the importance to Rwanda's security and stability of creating a professional national police force, UNAMIR responded positively to that request, within its existing resources. Accordingly, on 16 August, UNAMIR initiated a training programme with 103 students selected by the Government as volunteers from different social and ethnic groups. The aim of the programme is to provide trainees with the basic knowledge of routine and investigative police work, thus enabling them to address the immediate law and order problems at Kigali. I recommend that the Security Council authorize UNAMIR to pursue these efforts.

40. The activities of the UNAMIR civilian police component have thus evolved from liaison with local authorities to assisting the Government in the creation of a new police/gendarmerie. The component is also charged with monitoring the activities of local police and gendarmerie, monitoring the activities of the civil authorities with regard to human rights violations and assisting UNAMIR military observers and troops in dealing with police matters.

41. The headquarters and training activities of the UNAMIR civilian police component are based at Kigali. A two-phase deployment of police observers is being implemented. Under phase I, which has been completed, police observers have been deployed at the civilian police headquarters, training centre and the prefectures of Kigali, Gikongoro, Cyangugu, Kibuye, Gitarama and Butare. Phase II will be executed once the full strength of police observers is reached.

Under this phase, civilian police monitors will be deployed in all prefectures of the country.

42. To date, the component has a total strength of 30 police observers, with 10 each from Ghana, Mali and Nigeria. More observers are scheduled to be deployed shortly, although the Secretariat is having difficulties in obtaining from Member States a sufficient number of French-speaking police personnel.

VII. HUMANITARIAN ASPECTS

43. Current estimates suggest that Rwanda's pre-war population of 7.9 million has fallen to 5 million. Estimates of internally displaced persons range from 800,000 to 2 million. There are more than 2 million refugees in Zaire, the United Republic of Tanzania, Burundi and Uganda. At the same time, it is estimated that more than 200,000 former refugees have returned to Rwanda from Burundi and Uganda. The victims of genocidal slaughter could number as many as 1 million.

44. The humanitarian demands of the Rwandan emergency continue to stretch the capacity of the international community. In addition to the refugee crisis at Goma, the humanitarian community has had to address several crucial issues: the withdrawal of Operation Turquoise from the south-west; assistance to the internally displaced people; the transition from emergency relief to rehabilitation; the humanitarian implications of human rights violations; and the need to examine the Rwanda crisis in a regional context.

45. Prior to the withdrawal of Operation Turquoise, there was extreme concern among the international community that fear of reprisals by the RPA would drive thousands of Hutus across the border into Zaire. With poor road conditions, large distances to the camp-sites and other logistic difficulties, the scenarios were recognized by the humanitarian community as being cataclysmic, with the potential for refugee movement exceeding even that to Goma.

46. Under the coordination of the United Nations Rwanda Emergency Office, the international community adopted a policy of confidence-building in the south-west to encourage the internally displaced not to flee across the borders. At the political level, the RPA agreed not to occupy the south-west until conditions had stabilized. The timely and large-scale influx of United Nations and non-governmental organization resources, combined with the deployment of UNAMIR troops into the area, defused the situation. Some 350,000 people did cross the border into camps around Bukavu in Zaire; however, the majority remained within Rwanda.

47. It is agreed that the return of refugees to Rwanda is the only lasting solution and that it is critical to the resumption of normal economic and social life. However, the intimidation of refugees by former militia and army elements in the camps and the fact that those former soldiers and militia have not been disarmed are serious obstacles to the implementation of a repatriation programme. UNHCR does not feel at the present stage that it is in a position to encourage refugees to return home, partially because of deteriorating security for the returnee candidates in the camps and also because of concerns about

security conditions in parts of Rwanda. UNHCR is none the less facilitating and assisting the return of spontaneous returnees.

48. As for the internally displaced persons, agreement has been reached among the humanitarian agencies to focus on facilitating their return to their areas of origin. By strengthening community capacity-building, providing rehabilitation support and improving security, the aim is to provide an attractive return option for those in the displaced persons' camps.

49. This policy of voluntary return of the internally displaced is vital. Many camps will become uninhabitable during the rainy season because of contamination of water supplies by sewage, inadequate shelter and poor access for relief convoys. In addition, if people stay in the camps, the fields are untended. Already the harvest has been missed and it is likely that the planting season will also be missed in many areas. This will mean that the international community will have to provide food aid for a second season. The resettlement of the displaced and the resumption of agricultural production are critical to the Government's efforts to rehabilitate the country. The longer people stay in camps, the longer rehabilitation is likely to take. There are now regular convoys carrying those who wish to return from Cyangugu in the south-west to Butare, Gikongoro and Kigali. Between 7 September and 23 September, some 3,337 people were transported home from Cyangugu. Returnees have also been transported from the north-west.

50. As the country strives to return to normalcy, increasing attention must be given to the transition from emergency relief to rehabilitation. The Government faces the huge challenge of rebuilding the country after a devastating war with almost no financial and human resources. It is vital that the international community provide quick and efficient rehabilitation assistance. In that connection, the Special Representative and the Under-Secretary-General for Humanitarian Affairs have distributed among donor countries, agencies and non-governmental organizations the Rwanda Emergency Normalization Plan, which outlines the initial areas requiring both financial and technical assistance. UNDP has begun initial projects to support the capacity-building of government ministries. Other United Nations organizations are contributing to the process in their respective areas of competence. As a result of those efforts, the infrastructure is improving. Essential services such as electricity and water supply have been restored at Kigali and services are being repaired around the country.

51. One major impediment for rehabilitation is the presence of mines. It is believed that there are 50,000 to 60,000 uncleared land-mines in Rwanda, with an average of two civilian mine casualties a day. United Nations de-mining experts have visited Rwanda to assess the scope of the problem. As the security situation stabilizes and de-mining can begin, the United Nations will coordinate with all concerned in providing assistance in that area.

52. Without reconciliation among the various parties to the conflict, it is likely that humanitarian operations will be protracted and difficult and will ultimately require greater commitments from the international community. This is directly linked to the human rights activities discussed in chapter III above.

53. It is apparent that the Rwanda crisis and its spill-over into neighbouring countries has serious political, economic, social and environmental implications for Burundi, the United Republic of Tanzania, Zaire and Uganda. In order to examine the merits of a broader and more comprehensive regional approach to the Rwanda problem, I appointed Mr. Robert Dillon as my Special Humanitarian Envoy for Rwanda and Burundi. The Special Envoy made a visit to the area from 8 to 22 September and has submitted his recommendations to me.

54. The United Nations Consolidated Appeal for Persons Affected by the Crisis in Rwanda was launched on 22 July 1994. It requested a total of $435 million to enable United Nations organizations to carry out their humanitarian programmes. This figure was revised upwards in the light of increasing needs to $552 million. As at 1 September, contributions received amounted to $384 million, covering 70 per cent of the total requirement. Based on information received by the Department of Humanitarian Affairs, bilateral and other direct contributions for the Rwanda crisis, including those in response to the Appeal, bring the total contributions up to $762 million.

55. The response of the international community to the crisis in Rwanda has been encouraging and has served to avert what could have been a major humanitarian disaster in the south-west. It is essential that this support be maintained as we enter into a delicate period of reconciliation and rehabilitation. For its part, the United Nations will continue its efforts to provide an appropriate framework for coordination of humanitarian assistance and the transition to reconstruction and development.

VIII. FINANCIAL ASPECTS

56. By its resolution 48/248 of 5 April 1994, the General Assembly authorized me to enter into commitments for UNAMIR, at a rate not to exceed $9,082,600 gross ($8,881,000 net) per month for the period from 5 April to 31 October 1994. This authorization was subject to the decision of the Security Council to extend the mandate of the Assistance Mission beyond 4 April 1994. In its resolution 925 (1994) of 8 June 1994, the Council, inter alia, decided to extend the mandate of UNAMIR until 9 December 1994.

57. By its decision 48/479 B of 14 September 1994, the General Assembly authorized me to enter into commitments in the amount of $37,182,100 gross ($38,043,200 net) to meet the immediate operational requirements of UNAMIR for the period from 5 April to 30 September 1994, this amount being in addition to the full commitment authority of $62,367,187 gross ($60,982,867 net) already provided by resolution 48/248.

58. My report on the financing of UNAMIR to the General Assembly at its forty-ninth session includes the cost estimate for the period from 5 April to 9 December 1994 in the amount of $179.6 million, after taking into consideration voluntary contributions in kind of $4.5 million pledged by Member States. My report also estimates costs for the period from 10 December 1994 to 9 December 1995 at $20 million per month, based on the current authorized strength and mandate of UNAMIR. On the basis of this cost estimate, I have requested the Assembly to provide the necessary resources for the maintenance of

UNAMIR, should the Security Council decide to extend its mandate beyond 9 December 1994.

59. As at 27 September 1994, unpaid assessed contributions to the UNAMIR special account since the inception of the Mission amounted to $30 million. The total unpaid assessed contributions for all peace-keeping operations at that date amounted to $1.9 billion.

IX. OBSERVATIONS AND RECOMMENDATIONS

60. There are signs that the situation in Rwanda is stabilizing and slowly returning to more normal conditions. Inevitably, there are serious obstacles to be overcome in the long road to recovery from the war and carnage that have devastated the country, inflicted trauma and hardship on its people and destroyed its institutions. The first priority remains the resolution of the massive humanitarian crisis, including the problems faced by the Rwandese refugees in Zaire and the United Republic of Tanzania. Acts of intimidation and violence within the refugee camps have inhibited the refugee population from choosing to return home. The Government is engaged in efforts to find a solution to these problems, with the support of United Nations agencies and programmes on the ground, coordinated by my Special Representative. Determined efforts will have to be made by the Government to create conditions under which the refugees and displaced persons can return to their homes in safety and dignity. Indeed, without the assurance that their human rights will be respected, it is unlikely that the refugees and displaced persons will return. In this regard, I have conveyed to the Government of Rwanda, through my Special Representative, the need to undertake broader efforts towards national reconciliation. I am encouraged that the Government has taken concrete steps in this direction and I urge the international community to support its efforts and encourage it to ensure that these efforts are both genuine and comprehensive.

61. I endorse the recommendation made by the Commission of Experts in its preliminary report that trials of individuals suspected of serious breaches of international humanitarian law, crimes against humanity and acts of genocide be carried out by an international criminal tribunal. The Commission considers it preferable that the jurisdiction of the International Criminal Tribunal for the Former Yugoslavia be expanded to cover international crimes committed in Rwanda from 6 April rather than to create a separate ad hoc international criminal tribunal. It is now for the Security Council to decide on the course of action to be adopted.

62. Among the many tasks facing the new Government and the Rwandese people is the reconstruction of the social and economic infrastructure of the country. Rwanda will require massive amounts of external technical and financial assistance on an urgent basis in order to create stability and re-establish basic services and a functioning economy. Donor agencies have undertaken the initial planning required before assistance can be released for reconstruction projects, and some small-scale rehabilitation of basic infrastructure is taking place. I urge donor Governments and international bodies to ensure that their programmes of assistance for Rwanda are implemented urgently. One aspect that is rapidly assuming the dimensions of an emergency is the Government's total

lack of funds to re-establish even the most rudimentary administration and pay its employees. It is essential that at least bridging assistance be devised to provide relief bilaterally or by international financial institutions. In that connection, I should like to appeal to bilateral donors to consider ways and means to help the Government resolve the problem of its arrears with the World Bank, so as to secure access to the resources of that institution. I should also like to urge Member States to contribute generously to the Trust Fund which I established on 14 July 1994 in order to finance humanitarian relief and rehabilitation programmes in Rwanda. It would also be helpful if Governments could share with the United Nations information about their bilateral programmes of assistance so that there can be a coordinated response to Rwanda's needs.

63. Long-term peace and stability in Rwanda require genuine reconciliation between all elements of Rwandese society. Refugees and displaced persons must have the opportunity to return to their homes in peace, safety and dignity. The human and civic rights of all Rwandese people must be respected. I urge the new Government to maintain an open dialogue with all other political interest groups in Rwanda, including former government officials, except for individuals who are found, through due process, to have been directly implicated in acts of genocide. This is the only way the country can achieve durable political stability, within the principles of the Arusha Accords.

64. The evolving developments in and around Rwanda strengthen the case for a broader approach to the question of national reconciliation and the other aspects of the crisis. The Council will recall that the Mission it dispatched to Burundi from 13 to 14 August 1994 recommended, inter alia, that an international conference be convened to look into the problems of the subregion. I shall continue to consult with all relevant parties with a view to determining how the United Nations could assist in the preparation and convening of such a conference.

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Agenda item 39
THE SITUATION IN BOSNIA
AND HERZEGOVINA

SECURITY COUNCIL
Forty-ninth year

Letter dated 5 October 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Bosnia and Herzegovina addressed to the Secretary-General

We are concerned once again that the report contained in the annex to Security Council document S/1994/1124 of 3 October 1994 is further evidence of a relentless rush, on the basis of preordained evidence, to secure a political result without due consideration to the true facts, circumstances or consequences.

We must question the authority of a report based upon a short duration of monitoring and limited scope of investigation. It is inconceivable that a monitoring team that has not yet nearly reached its mandated capacity, a capacity which already falls well short of the necessary manpower and resources, is in a position, factually or legally, to provide the enclosed authoritative assessment.

We are also puzzled by the assertion of the report, which reads "in the absence of any contrary information from the air, whether airborne reconnaissance system of the North Atlantic Treaty Organization (NATO), or from national technical means", that the border is closed. This statement overlooks the fact that:

1. To our knowledge, neither the Security Council nor the Co-Chairmen have requested such information nor has there necessarily been sufficient time to submit it without this request.

2. The Government of the Republic of Bosnia and Herzegovina has in fact provided some information reflecting ongoing violations of the border.

3. The widely reported "helicopter flights" identified in the media and by reports to the Council (pursuant to Security Council resolution 781 (1992) of 9 October 1992), including S/1994/5/Add.65, have not been investigated.

4. Even some high-level representatives of the Contact Group member States, including United States Secretary of Defense, Mr. William Perry, have, since the adoption of resolution 943 (1994) of 23 September 1994, cautioned about continuing violations.

We firmly believe it would be most appropriate for the Secretariat and/or the Security Council to investigate the above facts, among others, before accepting the said report as authoritative. Otherwise, this entire procedure will become a sham consumed in the service of unsatisfied political agendas.

May I ask for your kind assistance in circulating the present letter as a document of the General Assembly, under agenda item 39, and of the Security Council.

(Signed) Ivan Z. MISIC
Ambassador and Deputy
Permanent Representative

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6 October 1994
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LETTER DATED 5 OCTOBER 1994 FROM THE PERMANENT REPRESENTATIVE OF KUWAIT TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I am writing with reference to the letter from the representative of the Iraqi regime addressed to you (document S/1994/1101 of 27 September 1994) in which an allegation is made concerning the seizure by Kuwaiti coastguards of an Iraqi fishing boat with seven fishermen on board. I should like to inform you that the allegation made in the Iraqi letter is completely untrue and that the relevant Kuwaiti authorities did not detain any Iraqis during that period of time. The allegation made in the aforesaid Iraqi letter is to be regarded as the fabrication of an incident that did not take place.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Mohammad A. ABULHASAN
Permanent Representative

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